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Contents

Federal Register

Vol. 82, No. 168

Thursday, August 31, 2017

Agriculture Department
See Food Safety and Inspection Service
See Rural Utilities Service

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41415–41416

Civil Rights Commission
NOTICES
Meetings:
Montana Advisory Committee, 41397
New Mexico Advisory Committee, 41396–41397
Tennessee Advisory Committee, 41397–41398
Meetings; Sunshine Act, 41396

Coast Guard
RULES
Pilotage Rates:
Great Lakes—2017 Annual Review, 41466–41496
Safety Zones:
Pacific Ocean, North Shore, Oahu, HI—Recovery Operations, 41333–41335

Commerce Department
See Economic Analysis Bureau
See National Oceanic and Atmospheric Administration

Defense Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41398–41399

Economic Analysis Bureau
NOTICES
Charter Renewals:
Bureau of Economic Analysis Advisory Committee, 41398

Employee Benefits Security Administration
PROPOSED RULES
Best Interest Contract Exemption, etc.; Extension of Transition Period and Delay of Applicability Dates, 41365–41376

Energy Department
See Federal Energy Regulatory Commission
See Southeastern Power Administration

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Georgia; Update to Materials Incorporated by Reference, 41337–41342
Kentucky; Louisville Miscellaneous Rule Revisions, 41335–41337
New Jersey; Revised Format for Materials Incorporated by Reference; Correction, 41342–41343
Data Elements under Greenhouse Gas Reporting Rule; Revisions and Confidentiality Determinations, 41343
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Illinois; Control of Emissions from Large Combustion Sources, 41376–41379
Indiana; Infrastructure State Implementation Plan Requirements for 2012 Fine Particulate Matter National Ambient Air Quality Standards, 41379–41386
Nevada; Washoe Oxygenated Fuels Program, 41386–41388
NOTICES
CERCLA Administrative Cost Recovery Settlements:
Wolff-Alport Superfund Site, Queens County, NY, 41414

Federal Aviation Administration
RULES
Airworthiness Directives:
Dassault Aviation Airplanes, 41323–41326, 41329–41331
The Boeing Company Airplanes, 41326–41329, 41331–41333
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Outdoor Laser Operations, 41463–41464

Federal Communications Commission
RULES
Public Inspection File Requirements; Revisions:
Broadcaster Correspondence File and Cable Principal Headend Location, 41343–41344

Federal Energy Regulatory Commission
PROPOSED RULES
Annual Charges for Use of Government Lands in Alaska, 41359–41364
NOTICES
Combined Filings, 41399–41401
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Cuyama Solar, LLC, 41401

Federal Labor Relations Authority
NOTICES
Memberships:
Senior Executive Service Performance Review Board, 41414

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 41414–41415

Fish and Wildlife Service
RULES
Migratory Bird Hunting:
Regulations on Certain Federal Indian Reservations and Ceded Lands for 2017–18 Season, 41344–41355
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Alaska Guide Service Evaluation, 41423–41424

Hunting and Fishing Application Forms and Activity Reports for National Wildlife Refuges, 41421–41423

Food and Drug Administration
PROPOSED RULES
Guidance:
Hazard Analysis and Risk-Based Preventive Controls for Human Food, 41364–41365
NOTICES
Guidance:
Electronic Study Data Submission; Data Standards; Support for Version Update of Medical Dictionary for Regulatory Activities, 41416–41417
Policy Clarification and Premarket Notification (510(k)) Submissions for Ultrasonic Diathermy Devices, 41417–41418
Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices, 41418–41420

Food Safety and Inspection Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Accreditation of Laboratories, Transactions, and Exemptions, 41391–41392
Public Health Information System, 41393–41395
Salmonella Initiative Program, 41392–41393

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Homeland Security Department
See Coast Guard

Interior Department
See Fish and Wildlife Service
See Ocean Energy Management Bureau

Labor Department
See Employee Benefits Security Administration
See Labor Statistics Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Department of Labor Generic Clearance for Collection of Qualitative Feedback on Agency Service Delivery, 41430–41431
Employee Retirement Income Security Act Prohibited Transaction Class Exemption 1981–8, Investment of Plan Assets in Certain Types of Short-Term Investments, 41428–41429
Interstate Arrangement for Combining Employment and Wages, 41429–41430
Overpayment Detection and Recovery Activities, 41427–41428

Labor Statistics Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41431–41432

National Institutes of Health
NOTICES
Meetings:
Peer Review of Draft National Toxicology Program Approach to Genomic Dose-Response Modeling, 41420–41421

National Oceanic and Atmospheric Administration
RULES
Atlantic Highly Migratory Species:
Atlantic Bluefin Tuna Fisheries, 41356–41358
Fisheries of Exclusive Economic Zone Off Alaska:
Pacific Ocean Perch in Bering Sea and Aleutian Islands Management Area, 41358
PROPOSED RULES
Pacific Island Pelagic Fisheries:
2017 U.S. Territorial Longline Bigeye Tuna Catch Limits, 41388–41390

National Science Foundation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41432–41433

Nuclear Regulatory Commission
RULES
List of Approved Spent Fuel Storage Casks:
Holtec International HI-STORM 100 Cask System; Certificate of Compliance No. 1014, Amendment No. 9, Revision 1, and Amendment No. 10; Correction, 41321–41323

Ocean Energy Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Geological and Geophysical (G and G) Explorations of Outer Continental Shelf, 41424–41427

Personnel Management Office
RULES
Prevailing Rate Systems:
Redefinition of Certain Nonappropriated Fund Federal Wage System Wage Areas; Correcting Amendment, 41321

Presidential Documents
EXECUTIVE ORDERS
Law Enforcement:
Lifesaving Equipment and Resources; Provisions To Restore Access to State, Tribal, and Local Law Enforcement Agencies (EO 13809), 41497–41500

Rural Utilities Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41395–41396

Securities and Exchange Commission
NOTICES
Deregistration Applications, 41451–41452
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 41457–41461
Depository Trust Co.; Fixed Income Clearing Corp.; National Securities Clearing Corp., 41433–41438
ICE Clear Credit, LLC, 41454–41457
Investors Exchange, LLC, 41446–41454
LCH SA, 41438–41446

Southeastern Power Administration
NOTICES
Georgia-Alabama-South Carolina System, 41401–41414

State Department
NOTICES
Charter Renewals:
Industry Advisory Group, 41461

Surface Transportation Board
NOTICES
Abandonment Exemptions:
Columbia and Cowlitz Railway, LLC, Cowlitz County, WA, 41461–41462
Abandonments and Discontinuances of Service Exemptions:
Patriot Woods Railroad, LLC, Cowlitz County, WA; Columbia and Cowlitz Railway, LLC, Cowlitz County, WA, 41462–41463
Discontinuances of Service Exemptions:
Wisconsin Central, Ltd.; Waupaca County, WI, 41461

Transportation Department
See Federal Aviation Administration

Treasury Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals
EEO Complaint Forms, 41464

Separate Parts In This Issue

Part II
Homeland Security Department, Coast Guard, 41466–41496

Part III
Presidential Documents, 41497–41500

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Executive Orders:

13688 (Revoked by 13809) 41499
13809 41499

5 CFR

532 41321

10 CFR

72 41321

14 CFR

39 (4 documents) 41323, 41326, 41329, 41331

18 CFR

Proposed Rules:

11 41359

21 CFR

Proposed Rules:

117 41364

29 CFR

Proposed Rules:

2550 41365

33 CFR

165 41333

40 CFR

52 (3 documents) 41335, 41337, 41342
98 41343

Proposed Rules:

52 (3 documents) 41376, 41379, 41386

46 CFR

401 41466
403 41466
404 41466

47 CFR

73 41343

50 CFR

20 41344
635 41356
679 41358

Proposed Rules:

665 41388

Rules and Regulations

Federal Register
Vol. 82, No. 168
Thursday, August 31, 2017

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AN48

Prevailing Rate Systems; Redefinition of Certain Nonappropriated Fund; Federal Wage System Wage Areas

AGENCY: U.S. Office of Personnel Management.

ACTION: Correcting amendment.

SUMMARY: The U.S. Office of Personnel Management (OPM) published a final rule in the **Federal Register** on May 31, 2017 (82 FR 24825), amending the geographic boundaries of several nonappropriated fund (NAF) Federal Wage System (FWS) wage areas. The final rule incorrectly listed Lane County, Oregon, in the Pierce, Washington, NAF FWS wage area under the State of Washington instead of under the State of Oregon. This document corrects this error.

DATES: Effective August 31, 2017.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, by telephone at (202) 606–2838 or by email at *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: In a final rule published in the **Federal Register** on May 31, 2017 (82 FR 24825), OPM incorrectly listed Lane County, Oregon, in the Pierce, Washington, NAF FWS wage area under the State of Washington instead of under the State of Oregon. This document corrects the error and does not affect the pay of any FWS employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Brenda L. Roberts,

Deputy Associate Director for Pay and Leave.

Accordingly, OPM amends 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

■ 2. Appendix D to Subpart B is amended by revising the wage area listing for the Pierce, WA, wage area to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

WASHINGTON

* * * * *

Pierce

Survey Area

Washington:
  Pierce
  Area of Application. Survey area plus:
Oregon:
  Clatsop
  Coos
  Douglas
  Lane
  Multnomah
  Tillamook
Washington:
  Clark
  Grays Harbor

* * * * *

[FR Doc. 2017–18514 Filed 8–30–17; 8:45 am]

BILLING CODE 6325–39–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2015–0156; NRC–2015–0270]

RIN 3150–AJ63; 3150–AJ71

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM 100 Cask System; Certificate of Compliance No. 1014, Amendment No. 9, Revision 1, and Amendment No. 10; Corrections

AGENCY: Nuclear Regulatory Commission.

ACTION: Correcting amendments.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) published a direct final rule on January 6, 2016, amending its spent fuel storage regulations by revising the Holtec International, Inc. (Holtec) HI–STORM 100 Cask System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 9, Revision 1, to Certificate of Compliance (CoC) No. 1014. The direct final rule was effective on March 21, 2016. On March 14, 2016, the NRC published a direct final rule again amending its spent fuel storage regulations by revising the Holtec HI–STORM 100 Cask System listing within the ''List of approved spent fuel storage casks,'' to include Amendment No. 10 to CoC No. 1014. That direct final rule was effective on May 31, 2016. The technical specifications (TS) for both the Holtec HI–STORM 100 Cask System, Amendments No. 9, Revision 1, and No. 10 included minor editorial and non-substantive errors. The purpose of this action is correct these errors.

DATES: The correction is effective August 31, 2017.

ADDRESSES: Please refer to Docket IDs NRC–2015–0156 and NRC–2015–0270 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket IDs NRC–2015–0156 and NRC–2015–0270. 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.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access 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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.

• *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: John-Chau Nguyen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0262; email: *John-Chau.Nguyen@nrc.gov.*

SUPPLEMENTARY INFORMATION: On June 23, 2017, the NRC received a request from Holtec to correct minor editorial and non-substantive errors in Appendix A, ''Technical Specifications for the HI–STORM 100 Cask System,'' of CoC No. 1014. In its letter, Holtec stated that it identified a typographical error that should be corrected. Specifically, Table 3–2 refers to Tables 3–3 and 3–4 for per cell decay heat load limits for the ''MPC–68/68F/68FF/68M'', but Tables 3–3 and 3–4 omitted the MPC–68M.

The NRC previously reviewed and approved the use of model MPC–68M in Amendment No. 8 to CoC No. 1014 (which was superseded by Amendment No. 8 Revision 1). In Amendment No. 9, the NRC added Tables 3–3 and 3–4 and, in Table 3–2, added a reference to decay heat loads in Tables 3–3 and 3–4. The technical specifications for Amendment No, 9, Revision 1 (which superseded Amendment No. 9), and Amendment No. 10 include the same Tables 3–2, 3–3 and 3–4 as were in Amendment No. 9.

The reference in Appendix A, Table 3–2, refers to Table 3–3 and 3–4 for the per cell heat load limits for the 'MPC–68/68F/68FF/68M.' However, Tables 3–3 and 3–4 only have rows for 'MPC–68/68F/68FF,' and do not specifically include the MPC–68M. Since the decay heat load, whether uniform or regionalized, for all 68 cell Multi-purpose Canisters (MPCs) are identical, and the NRC previously reviewed and approved this heat load, it is evident that the omission of 68M in Tables 3–3 and 3–4 was an editorial error. Although this error is editorial, and has no impact on the loading of MPCs, it is still appropriate to correct the error in Amendment No. 9, Revision 1, and Amendment No. 10. Correcting this error would not change the substantive responsibilities of any person or entity regulated by the NRC. This document corrects these errors.

Rulemaking Procedure

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on this correction because it will have no substantive impact and is of a minor and administrative nature dealing with a correction to a CFR section related only to management, organization, procedure, and practice. Specifically, this amendment is to correct minor editorial errors. This correction does not require action by any person or entity regulated by the NRC. Also, the substantive responsibilities of any person or entity regulated by the NRC are not changed. Accordingly, for the reasons stated, the NRC finds, pursuant to 5 U.S.C. 553(d)(3), that good cause exists to make this correction effective upon publication.

Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	Adams accession No.
Holtec's June 23, 2017, request for correction to CoC No. 1014	ML17178A376
CoC No. 1014, Amendment No. 8	ML12213A170
CoC No. 1014, Amendment No. 8, Rev. 1	ML16041A233
CoC No. 1014, Amendment No. 9	ML14071A188
CoC No. 1014, Amendment No. 9, Rev. 1	ML16056A529
CoC No.-1014, Amendment No. 10	ML16144A127

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Hazardous waste, Indians, Intergovernmental relations, Manpower training programs, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate No.: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009.

Amendment Number 7 Effective Date: December 28, 2009.

Amendment Number 8 Effective Date: May 2, 2012, as corrected on November 16, 2012 (ADAMS Accession No. ML12213A170); superseded by Amendment Number 8, Revision 1, Effective Date: February 16, 2016.

Amendment Number 8, Revision 1, Effective Date: February 16, 2016.

Amendment Number 9 Effective Date: March 11, 2014, superseded by Amendment Number 9, Revision 1, on March 21, 2016.

Amendment Number 9, Revision 1, Effective Date: March 21, 2016, as corrected (ADAMS Accession No. ML17236A451).

Amendment Number 10 Effective Date: May 31, 2016, as corrected (ADAMS Accession No. ML17236A452).

Safety Analysis Report (SAR) Submitted by: Holtec International.

SAR Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.

Docket Number: 72–1014.

Certificate Expiration Date: May 31, 2020.

Model Number: HI–STORM 100.

* * * * *

Dated at Rockville, Maryland, this 25th day of August 2017.

For the Nuclear Regulatory Commission.

Pamela J. Shepherd-Vladimir,

Acting Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2017–18456 Filed 8–30–17; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0475; Product Identifier 2016–NM–142–AD; Amendment 39–19017; AD 2017–18–08]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 2000 and FALCON 2000EX airplanes. This AD was prompted by reports of ice accretion on the airplane wing due to the failure of certain anti-ice piccolo tubes in the wing outboard slats. This AD requires repetitive inspections of each anti-ice piccolo tube and corrective action if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 5, 2017.

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

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 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–2017–0475.

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–2017–0475; 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: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; 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 Dassault Aviation Model FALCON 2000 and FALCON 2000EX airplanes. The NPRM published in the **Federal Register** on May 22, 2017 (82 FR 23163) (''the NPRM''). The NPRM was prompted by reports of ice accretion on the airplane wing due to the failure of certain anti-ice piccolo tubes in the wing outboard slats. The NPRM proposed to require repetitive inspections of each anti-ice piccolo tube and corrective action if necessary. We are issuing this AD to detect and correct manufacturing defects in the anti-ice piccolo tubes in the wing outboard slats. This condition could lead to undetected significant ice accretion on a wing, resulting in loss of control of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0149, dated July 25, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Dassault Aviation Model FALCON 2000 and FALCON 2000EX airplanes. The MCAI states:

> Occurrences were reported of ice accretion on the wing, due to failure of the affected anti-ice piccolo tubes Part Number (P/N) FGFB725102. Investigation results indicated that some wing piccolo tubes P/N FGFB725102 could have manufacturing defects in their welded parts, which may have caused the rupture of the tubes, due to fatigue.
>
> This condition, if not detected and corrected, could lead to undetected significant ice accretion on the wing, possibly resulting in loss of control of the aeroplane.
>
> To address this potential unsafe condition, [Dassault Aviation] DA issued Service Bulletin (SB) F2000–431 Revision 1 and SB F2000EX–391 Revision 1 (hereafter referred to collectively as 'the applicable SB' in this [EASA] AD) to provide instructions for endoscopic inspection of the tubes.

For the reasons described above, this [EASA] AD requires repetitive inspections of each wing outboard slat piccolo tube [for discrepancies, *i.e.,* manufacturing defects, cracking, and loss of material in the welded parts] and, depending on findings, replacement of the piccolo tube(s) [and the outboard slat] with a [new or] serviceable part.

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–2017–0475.

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.

Change to NPRM

We have added paragraph (j) to this AD to explain that although Dassault Service Bulletin F2000–431, Revision 1, dated June 6, 2016; and Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016; specify to submit a report of crack findings to Dassault, this AD does not require a report. We have redesignated subsequent paragraphs accordingly.

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

Dassault Aviation has issued Service Bulletin F2000–431, Revision 1, dated June 6, 2016; and Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016. The service information describes procedures for endoscopic inspections of the anti-ice piccolo tube on each wing outboard slat, and replacement or re-identification of affected anti-ice piccolo tubes and outboard slats. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 348 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	6 work-hours × $85 per hour = $510 per inspection cycle.	$0	$510 per inspection cycle	$177,480 per inspection cycle.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–18–08 Dassault Aviation: Amendment 39–19017; Docket No. FAA–2017–0475; Product Identifier 2016–NM–142–AD.

(a) Effective Date

This AD is effective October 5, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 2000 and FALCON 2000EX airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Reason

This AD was prompted by reports of ice accretion on the airplane wing due to the failure of certain anti-ice piccolo tubes in the wing outboard slats. We are issuing this AD to detect and correct manufacturing defects in the anti-ice piccolo tubes in the wing outboard slats. This condition could lead to undetected significant ice accretion on a wing, resulting in loss of control of the airplane.

(f) Compliance

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

(g) Affected Anti-ice Piccolo Tubes

(1) For the purpose of this AD, an affected anti-ice piccolo tube meets at least one of the conditions specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD.

(i) Has part number (P/N) FGFB725102 (left-hand side (LH)) or P/N FGFB726102 (right-hand side (RH)).

(ii) Is installed on a wing outboard slat having a part number identified in table 1 to paragraph (g)(1)(ii) of this AD.

TABLE 1 TO PARAGRAPH (g)(1)(ii) OF THIS AD—AFFECTED OUTBOARD SLATS PART NUMBERS

LH	RH
FGFB134	FGFB144.
FGFB134A1 to FGFB134A9 inclusive	FGFB144A1 to FGFB144A9 inclusive.
FGFB134B1	FGFB144B1.
FFGFB134C1 to FGFB134C4 inclusive	FGFB144C1 to FGFB144C4 inclusive.
From FGFB134D1 to FGFB134D4 inclusive	FGFB144D1 to FGFB144D4 inclusive.
FGFB135 and FGFB135M	FGFB145 and FGFB145M.
FGFB135A1 to FGFB135A4 inclusive	FGFB145A1 to FGFB145A4 inclusive.
From FGFB135A1M to FGFB135A4M inclusive	FGFB145A1M to FGFB145A4M inclusive.
From FGFB135B1 to FGFB135B3 inclusive	FGFB145B1 to FGFB145B3 inclusive.
FGFB135B1M to FGFB135B3M inclusive	FGFB145B1M to FGFB145B3M inclusive.
F2MB135	F2MB145.
F2MB135A1	F2MB145A1.
F2MB135L1 to F2MB135L5 inclusive	F2MB145L1 to F2MB145L5 inclusive.

(2) If the outboard slat part number is identified in table 2 to paragraph (g)(2) of this AD, the anti-ice piccolo tube is not affected because the outboard slat has already been retrofitted with a new stiffened anti-ice piccolo tube, and no action is required by this AD for that piccolo tube.

TABLE 2 TO PARAGRAPH (g)(2) OF THIS AD—SERVICEABLE OUTBOARD SLATS PART NUMBERS

LH	RH
FGFB134P	FGFB144P.
FGFB134A1P through FGFB134A9P inclusive	FGFB144A1P through FGFB144A9P inclusive.
FGFB134B1P	FGFB144B1P.
FFGFB134C1P to FGFB134C4P inclusive	FGFB144C1P to FGFB144C4P inclusive.
From FGFB134D1P to FGFB134D4P inclusive	FGFB144D1P to FGFB144D4P inclusive.
FGFB135P and FGFB135MP	FGFB145P and FGFB145MP.
FGFB135A1P to FGFB135A4P inclusive	FGFB145A1P to FGFB145A4P inclusive.
From FGFB135A1MP to FGFB135A4MP inclusive	FGFB145A1MP to FGFB145A4MP inclusive.
From FGFB135B1P to FGFB135B3P inclusive	FGFB145B1P to FGFB145B3P inclusive.
FGFB135B1MP to FGFB135B3MP inclusive	FGFB145B1MP to FGFB145B3MP inclusive.
F2MB135P	F2MB145P.
F2MB135A1P	F2MB145A1P.
F2MB135L1P to F2MB135L5P inclusive	F2MB145L1P to F2MB145L5P inclusive.
F2MB135L6 to F2MB135L7 inclusive	F2MB145L6 to F2MB145L7 inclusive.

(h) Inspections

If an anti-ice piccolo tube has been determined to be affected, as specified in paragraph (g) of this AD: At the applicable time specified in table 3 to paragraph (h) of this AD, do an endoscopic inspection for discrepancies, *i.e.,* manufacturing defects, cracking, and loss of material in the welded parts of each affected anti-ice piccolo tube, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000–431, Revision 1, dated June 6, 2016; or Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016; as applicable. Repeat the endoscopic inspection thereafter at intervals not to exceed those specified in table 3 to paragraph (h) of this AD, until the modification specified in paragraph (k) of this AD is done.

TABLE 3 TO PARAGRAPH (h) OF THIS AD—COMPLIANCE TIMES FOR INSPECTIONS

Airplane model	Initial inspection	Repetitive inspection intervals
FALCON 2000 airplanes	Prior to exceeding 2,000 flight cycles since the airplane's first flight, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later.	2,000 flight cycles.

TABLE 3 TO PARAGRAPH (h) OF THIS AD—COMPLIANCE TIMES FOR INSPECTIONS—Continued

Airplane model	Initial inspection	Repetitive inspection intervals
FALCON 2000EX airplanes	Prior to exceeding 1,000 flight cycles since the airplane's first flight, or within 500 flight cycles after the effective date of this AD, whichever occurs later.	1,000 flight cycles.

(i) Corrective Action

If any discrepancy is found during any inspection required by paragraph (h) of this AD: Before further flight, replace the affected anti-ice piccolo tube with a new or serviceable part, and replace or re-identify the affected wing outboard slat as applicable, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000–431, Revision 1, dated June 6, 2016; or Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016; as applicable.

(j) Reporting Provisions

Although Dassault Service Bulletin F2000–431, Revision 1, dated June 6, 2016; and Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016; specify to submit a report of crack findings to Dassault, this AD does not require a report.

(k) Optional Terminating Action

Modification of an airplane by installing a new or serviceable anti-ice piccolo tube, and replacing or re-identifying the affected wing outboard slat, terminates the repetitive inspections required by paragraph (h) of this AD, if done in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000–431, Revision 1, dated June 6, 2016; or Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016; as applicable.

(l) Parts Installation Prohibition

As of the time specified in paragraph (l)(1) or (l)(2) of this AD, as applicable, no person may install on any airplane an affected anti-ice piccolo tube or an affected outboard slat.

(1) For an airplane that, on the effective date of this AD, has an affected anti-ice piccolo tube or an affected outboard slat installed: After modification of that airplane as required by paragraph (i) of this AD.

(2) For an airplane that, on the effective date of this AD, does not have an affected anti-ice piccolo tube or an affected outboard slat installed: As of the effective date of this AD.

(m) Later-Approved Parts

Installation on an airplane of an anti-ice piccolo tube having a part number approved after the effective date of this AD is acceptable for compliance with the requirements of paragraph (i) or paragraph (k) of this AD, as applicable, provided the conditions in paragraphs (m)(1) and (m)(2) of this AD are met.

(1) The anti-ice piccolo tube part number must be approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA).

(2) The installation of the anti-ice piccolo tube must be accomplished in accordance with a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the EASA; or Dassault Aviation's EASA DOA.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0149, dated July 25, 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–2017–0475.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

(p) 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) Dassault Service Bulletin F2000–431, Revision 1, dated June 6, 2016.

(ii) Dassault Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016.

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

(4) You may view this service information at the FAA, Transport Standards Branch, 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 August 21, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–18391 Filed 8–30–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0247; Product Identifier 2016–NM–180–AD; Amendment 39–19015; AD 2017–18–06]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2012–05–03, which applied to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. AD 2012–05–03 required modifying the fluid drain path in the leading edge area of the wing. This AD requires additional work to seal those drainage holes in the wing access panels. This AD was prompted by a design review following a ground fire

incident and reports of flammable fluid leaks from the wing leading edge area onto the engine exhaust area. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 5, 2017.

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

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of April 24, 2012 (77 FR 16143, March 20, 2012).

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 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–2017–0247.

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–2017–0247; 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: Tung Tran, Aerospace Engineer, Propulsion Section, Seattle ACO Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *Tung.Tran@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2012–05–03, Amendment 39–16975 (77 FR 16143, March 20, 2012) (''AD 2012–05–03''). AD 2012–05–03 applied to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. The NPRM published in the **Federal Register** on April 11, 2017 (82 FR 17403). The NPRM was prompted by a design review following a ground fire incident and reports of flammable fluid leaks from the wing leading edge area onto the engine exhaust area. The NPRM proposed to continue to require modifying the fluid drain path in the leading edge area of the wing. The NPRM also proposed to require additional work to seal those drainage holes in the wing access panels. We are issuing this AD to prevent flammable fluid from leaking onto the engine exhaust nozzle, which could result in a fire.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Special Attention Service Bulletin 747–57–2332, Revision 2, dated February 22, 2016. This service information divides the affected airplanes into 10 groups.

For all groups, this service information describes procedures for modifying the fluid drain path in the leading edge area of the wing. The modification consists of changing fluid dam assemblies at wing outboard leading edge station (OLES) 1250, and installing seal assemblies at OLES 1185. Additionally, this service information specifies changing the lower leading edge wing panels through repairs and installation of parts.

For Groups 1 through 6 airplanes, this service information also specifies installing fluid dam assemblies at wing OLES 770.

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

Costs of Compliance

We estimate that this AD will affect 258 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
Fluid drainage modification (Groups 1–6) (143 airplanes) (actions retained from AD 2012–05–03).	95 work-hours × $85 per hour = $8,075.	$33,609	$41,684	$5,960,812
Fluid drainage modification (Groups 7–10) (115 airplanes) (actions retained from AD 2012–05–03).	90 work-hours × $85 per hour = $7,650.	29,304	36,954	4,249,710
Drainage hole repair (258 airplanes) (new action)	2 work-hours × $85 per hour = $170.	9	179	46,182

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.

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–05–03, Amendment 39–16975 (77 FR 16143, March 20, 2012), and adding the following new AD:

2017–18–06 The Boeing Company: Amendment 39–19015; Docket No. FAA–2017–0247; Product Identifier 2016–NM–180–AD.

(a) Effective Date

This AD is effective October 5, 2017.

(b) Affected ADs

This AD replaces AD 2012–05–03, Amendment 39–16975 (77 FR 16143, March 20, 2012) (''AD 2012–05–03'').

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 747–57–2332, Revision 2, dated February 22, 2016.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a design review following a ground fire incident and reports of flammable fluid leaks from the wing leading edge area onto the engine exhaust area. We are issuing this AD to prevent flammable fluid from leaking onto the engine exhaust nozzle, which could result in a fire.

(f) Compliance

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

(g) Retained Leading Edge Installation, With Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2012–05–03, with revised service information. Within 60 months after April 24, 2012 (the effective date of AD 2012–05–03), modify the fluid drain path in the leading edge area of the wing, in accordance with all applicable parts of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–57–2332, Revision 1, dated July 25, 2011; or Revision 2, dated February 22, 2016.

(h) Retained Credit for Previous Actions, With No Changes

This paragraph restates the provisions of paragraph (h) of AD 2012–05–03, with no changes. This paragraph provides credit for modification of the fluid drain path required by paragraph (g) of this AD, if the modification was performed before April 24, 2012, using Boeing Special Attention Service Bulletin 747–57–2332, dated November 9, 2010.

(i) New Requirement to Seal Drainage Holes

For airplanes on which the actions specified in Boeing Special Attention Service Bulletin 747–57–2332, dated November 9, 2010; or Revision 1, dated July 25, 2011; were done: Within 2 years after the effective date of this AD, fill the drainage holes in wing panels 521EB and 621EB with sealant, in accordance with Part 5 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–57–2332, Revision 2, dated February 22, 2016.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(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 Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously for AD 2012–05–03 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(k) Related Information

(1) For more information about this AD, contact Tung Tran, Aerospace Engineer, Propulsion, Seattle ACO Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *Tung.Tran@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(5) and (l)(6) 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 the AD specifies otherwise.

(3) The following service information was approved for IBR on October 5, 2017.

(i) Boeing Special Attention Service Bulletin 747–57–2332, Revision 2, dated February 22, 2016.

(ii) Reserved.

(4) The following service information was approved for IBR on April 24, 2012 (77 FR 16143, March 20, 2012).

(i) Boeing Special Attention Service Bulletin 747–57–2332, Revision 1, dated July 25, 2011.

(ii) Reserved.

(5) 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.*

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

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

Issued in Renton, Washington, on August 21, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–18397 Filed 8–30–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0502; Product Identifier 2016–NM–120–AD; Amendment 39–19016; AD 2017–18–07]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X airplanes. This AD was prompted by a discovery of noncompliant rivets in the flight deck upper skin. This AD requires replacement of noncompliant rivets. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 5, 2017.

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

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 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–2017–0502.

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–2017–0502; 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: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; 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 certain Dassault Aviation Model FALCON 7X airplanes. The NPRM published in the **Federal Register** on May 31, 2017 (82 FR 24910) (''the NPRM''). The NPRM was prompted by a discovery of noncompliant rivets in the flight deck upper skin. The NPRM proposed to require replacement of noncompliant rivets. We are issuing this AD to prevent interference between the rivet shank and the flight deck mounted overhead panel when the flight deck upper skin deforms due to impact (*e.g.,* bird strike). This condition, if not corrected, could affect the functioning of essential flight control systems, and result in reduced control of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0124, dated June 22, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Dassault Aviation Model FALCON 7X airplanes. The MCAI states:

> During an internal review of the manufacturing files, it was found that 20 rivets installed on the cockpit [(flight deck)] upper skin are not compliant with the original type design. Those 20 MGPL type rivets have a shank longer than necessary and, in case of a bird strike under maximum energy impact, the cockpit upper skin deformation would lead to interference between the rivet shank and the cockpit mounted overhead panel.
>
> This condition, if not corrected, could affect the functioning of essential flight control systems, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Dassault Aviation published Service Bulletin (SB) F7X–176, providing instructions for replacement of the [noncompliant] rivets.
>
> For the reasons described above, this [EASA] AD requires removal of affected rivets and replacement with serviceable [solid-type] rivets compliant with original type design.

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–2017–0502.

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

Dassault Aviation has issued Service Bulletin 7X–176, dated February 3, 2016. This service information describes procedures for modifying the airplane by replacing certain blind rivets installed on the flight deck skin panel with solid-type rivets. 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 25 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	81 work-hours × $85 per hour = $6,885	$48	$6,933	$173,325

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–18–07 Dassault Aviation: Amendment 39–19016; Docket No. FAA–2017–0502; Product Identifier 2016–NM–120–AD.

(a) Effective Date

This AD is effective October 5, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, manufacturer serial numbers 15 through 89 inclusive, 92 through 94 inclusive, 97 through 101 inclusive, 105, and 106.

(d) Subject

Air Transport Association (ATA) of America Code 51, Standard practices/structures.

(e) Reason

This AD was prompted by a discovery of noncompliant rivets in the flight deck upper skin. We are issuing this AD to prevent interference between the rivet shank and the flight deck mounted overhead panel when the flight deck upper skin deforms due to impact (*e.g.,* bird strike), which could affect the functioning of essential flight control systems and result in reduced control of the airplane.

(f) Compliance

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

(g) Modification

Before exceeding 99 months or 4,100 flight cycles, whichever occurs first, since the date of issuance of the original certificate of airworthiness or the date of issuance of the original export certificate of airworthiness, modify the airplane by replacing certain MGPL-type rivets installed on the flight deck skin panel with solid type-rivets, in accordance with the Accomplishment Instructions of Dassault Service Bulletin 7X–176, dated February 3, 2016.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (i)(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, Transport Standards Branch, FAA; or EASA; or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0124, dated June 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–2017–0502.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

(j) Material Incorporated by Reference

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

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

(i) Dassault Service Bulletin 7X–176, dated February 3, 2016.

(ii) Reserved.

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

(4) You may view this service information at the FAA, Transport Standards Branch, 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 August 21, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–18390 Filed 8–30–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0559; Product Identifier 2017–NM–013–AD; Amendment 39–19014; AD 2017–18–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP airplanes. This AD was prompted by a report of damage found at the lower trailing edge panels of the left wing and a broken fuse pin of the landing gear beam end fitting. This AD requires repetitive replacement or inspection of certain fuse pins, and applicable on-condition actions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 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 service information at the FAA, Transport Standards Branch, 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–2017–0559.

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–2017–0559; 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: Bill Ashforth, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP airplanes. The NPRM published in the **Federal Register** on June 20, 2017 (82 FR 28023). The NPRM was prompted by a report of damage found at the lower trailing edge panels of the left wing and a broken fuse pin of the landing gear beam end fitting. The NPRM proposed to require repetitive replacement or inspection of certain fuse pins, and applicable on-condition actions. We are issuing this AD to detect and correct cracking in the fuse pin of the wing landing gear beam end fitting. A broken fuse pin will not support the wing landing gear beam, causing damage to the surrounding structure, including flight control cables and hydraulic systems, which could result in loss of controllability of the airplane.

Comment

We gave the public the opportunity to participate in developing this final rule. We have considered the comment received. Boeing 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 final rule as proposed, except for minor editorial changes. We have determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 747–57A2360, dated January 20, 2017. The service information describes procedures for repetitive replacement or inspection of certain fuse pins, and applicable on-condition actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 158 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
Fuse pin replacement [1]	Up to 46 work-hours × $85 per hour = $3,910 per replacement cycle.	Up to $15,150	Up to $19,060 per replacement cycle.	Up to $3,011,480 per replacement cycle.
Magnetic particle inspection [1].	Up to 48 work-hours × $85 per hour = $4,080 per inspection cycle.	$0	Up to $4,080 per inspection cycle.	Up to $644,640 per inspection cycle.
Surface inspection [1]	Up to 10 work-hours × $85 per hour = $850 per inspection cycle.	$0	Up to $850 per inspection cycle.	Up to $134,300 per inspection cycle.

[1] Operators may choose which action they want to use.

We estimate the following costs to do any necessary replacements that will 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
Fuse pin replacement	46 work-hours × $85 per hour = $3,910	Up to $15,150	Up to $19,060.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–18–05 The Boeing Company: Amendment 39–19014; Docket No. FAA–2017–0559; Product Identifier 2017–NM–013–AD.

(a) Effective Date

This AD is effective October 5, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of damage found at the lower trailing edge panels of the left wing and a broken fuse pin of the landing gear beam end fitting. We are issuing this AD to detect and correct cracking in the fuse pin of the wing landing gear beam end fitting. A broken fuse pin will not support the wing landing gear beam, causing damage to the surrounding structure, including flight control cables and hydraulic systems, which could result in loss of controllability of the airplane.

(f) Compliance

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

(g) Actions Required for Compliance

Except as required by paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–57A2360, dated January 20, 2017, do all applicable actions identified as required for compliance (''RC'') in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2360, dated January 20, 2017.

(h) Exception to the Service Information

Where Boeing Alert Service Bulletin 747–57A2360, dated January 20, 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.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

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

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

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

(j) Related Information

For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 747–57A2360, dated January 20, 2017.

(ii) Reserved.

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

(4) You may view this service information at the FAA, Transport Standards Branch, 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 August 21, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–18392 Filed 8–30–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0809]

RIN 1625–AA00

Safety Zone; Pacific Ocean, North Shore, Oahu, HI—Recovery Operations

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters of the North Shore of Oahu, Hawaii, near Ka'Ena Point. The temporary safety zone encompasses all waters extending 3 nautical miles in all directions from position 21°34.88′ N.; 158°17.90′ W. The safety zone is needed to protect personnel, vessels and the marine environment from potential hazards associated with ongoing operations to salvage a downed helicopter in this area. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Honolulu.

DATES: This rule is effective without actual notice from August 31, 2017 until 8:00 a.m. on September 15, 2017. For the purposes of enforcement, actual notice will be used from August 22, 2017, until August 31, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0809 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander John Bannon, Waterways Management Division, U.S. Coast Guard Sector Honolulu at (808) 541–4359 or *john.e.bannon@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to respond to the potential safety hazards associated with this salvage effort, and therefore publishing an NPRM is impracticable and contrary to public interest.

On August 16, 2017, the Coast Guard published a temporary final rule entitled, ''Safety Zone; Pacific Ocean, North Shore Oahu, HI docket number USCG–2016–0507, establishing a safety zone in the navigable waters of the Pacific Ocean, North Shore, Oahu, HI. The purpose of the safety zone was to provide for the safety of search and rescue efforts for an August 15, 2017 downed helicopter off the North Shore, Oahu, HI, near Ka'Ena Point. Additionally, the safety zone was necessary to map the debris field and crash location. The new TFR adjusts the safety zone to complete all salvage and recovery operations after the completion of the search and rescue operations.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. On August 15, 2017, the Coast Guard was informed of a helicopter crash off the North Shore of Oahu, Hawaii, near Ka'Ena Point. The Coast Guard COTP Sector Honolulu has determined that potential hazards associated with the salvage operations constitute a safety concern for anyone within the designated safety zone. This rule is necessary to protect personnel, vessels, and the marine environment within the navigable waters of the safety zone during ongoing salvage operations.

IV. Discussion of the Rule

This rule is effective from August 22, 2017 through 8:00 a.m. on September 15, 2017, or until salvage operations are complete, whichever is earlier. If the safety zone is terminated prior to 8:00 a.m. on September 15, 2017, the Coast Guard will provide notice via a broadcast notice to mariners. The temporary safety zone encompasses all waters extending 3 nautical miles in all directions around the location of ongoing salvage operations near position: 21°34.88′ N.; 158°17.90′ W. This zone extends from the surface of the water to the ocean floor. The zone is intended to protect personnel, vessels, and the marine environment in these navigable waters from potential hazards associated with the salvage operations of one downed helicopter in this area. No vessel or person will be permitted to enter the safety zone absent the express authorization of the COTP or his designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact only a small designated area of the waters off of Ka'Ena Point where vessel traffic is normally low. 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 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. The safety zone is limited in size and duration, and mariners may request to enter the zone by contacting the COTP.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 rule involves a safety zone with a duration of six days or until the search is suspended. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T14–0809 to read as follows:

§ 165.T14–0809 Safety Zone; Pacific Ocean, North Shore Oahu, HI—Recovery Operations.

(a) *Location.* The safety zone is located within the COTP Zone (See 33 CFR 3.70–10) and will encompass all navigable waters extending 3 nautical miles in all directions from position: 21°34.88′ N.; 158°17.90′ W. This zone extends from the surface of the water to the ocean floor.

(b) *Enforcement Period.* This rule is effective from 1:00 p.m. (HST) on August 22, 2017 through 8:00 a.m. (HST) on September 15, 2017, or until salvage operations are complete, whichever is earlier. If the safety zone is terminated prior to 8:00 a.m. (HST) on September 15, 2017, the Coast Guard will provide notice via a broadcast notice to mariners.

(c) *Regulations.* The general regulations governing safety zones contained in 33 CFR 165.20, subpart C, apply to the safety zone created by this temporary final rule.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR part 165.

(2) Entry into or remaining in this zone is prohibited unless expressly authorized by the COTP or his designated representative.

(3) Persons desiring to transit the safety zone identified in paragraph (a) of this section may contact the COTP at the Command Center telephone number (808) 842–2600 and (808) 842–2601, fax (808) 842–2642 or on VHF channel 16 (156.8 Mhz) to seek permission to transit the zone. If permission is granted, all persons and vessels must comply with the instructions of the COTP or his designated representative and proceed at the minimum speed necessary to maintain a safe course while in the zone.

(4) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(d) *Notice of enforcement.* The COTP will cause notice of the enforcement of the safety zone described in this section to be made by verbal broadcasts and written notice to mariners and the general public.

(e) *Definitions.* As used in this section, designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the COTP to assist in enforcing the safety zone described in paragraph (a) of this section.

Dated: August 22, 2017.

M.C. Long,

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

[FR Doc. 2017–18451 Filed 8–30–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0022; FRL–9967–05–Region 4]

Air Plan Approval; Kentucky; Louisville Miscellaneous Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 29, 2012, the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ), submitted changes to the Kentucky State Implementation Plan (SIP) on behalf of the Louisville Metro Air Pollution Control District (District or Jefferson County). The Environmental Protection Agency (EPA) is approving several changes that modify the District's air quality regulations as incorporated into the SIP. The changes to the regulatory portion of the SIP that EPA is approving pertain to definitional changes, administrative amendments, open burning, standards of performance, and volatile organic compounds (VOCs). EPA is approving these changes because the Commonwealth and Jefferson County have demonstrated that these changes are consistent with the Clean Air Act (CAA or Act).

DATES: This rule is effective October 2, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0022. All documents in the docket are listed on the *https://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

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

SUPPLEMENTARY INFORMATION:

I. Background

On August 29, 2012, KDAQ submitted a SIP revision to EPA for approval that

involves changes to Jefferson County regulations related to acronym additions, administrative amendments, open burning, standards of performance, and VOCs. EPA is approving the changes to Jefferson County Regulation 1.03—*Abbreviations and Acronyms;* Regulation 1.08—*Administrative Procedures;* Regulation 1.11—*Control of Open Burning;* Regulation 1.19—*Administrative Hearings;* Regulation 6.18—*Standards of Performance for Solvent Metal Cleaning Equipment;* Regulation 6.43—*Volatile Organic Compound Emission Reduction Requirements;* and repeal Regulation 7.18—*Standards of Performance for New Solvent Metal Cleaning Equipment.*

This action will update Kentucky's acronyms and make changes to other regulations approved into the SIP. The changes made to the regulations other than definitions are administrative in nature, including updating internal references. In a proposed rulemaking published on July 10, 2017 (82 FR 31736), EPA proposed to approve Kentucky's August 29, 2012, SIP revision. The details of Kentucky's August 29, 2012, SIP revision and the rationale for EPA's action are explained in the proposed rulemaking. Comments on the proposed rulemaking were due on or before August 9, 2017. EPA did not receive any comments on the proposed action.

II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporate by reference Jefferson County Regulation 1.03—*Abbreviations and Acronyms,* which had a state effective date of January 16, 2008; Regulation 1.08—*Administrative Procedures,* in which version 13 had an effective date of March 21, 2010; Regulation 1.11—*Control of Open Burning;* Regulation, in which version 10 has an effective date of January 16, 2008; 1.19—*Administrative Hearings,* which has an effective date of January 16, 2008; Regulation 6.18—*Standards of Performance for Solvent Metal Cleaning Equipment,* which has an effective date of May 9, 2003; and Regulations 6.43—*Volatile Organic Compound Emissions Reduction Requirements,* in which version 5 has an effective date of February 15, 2006. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1]

III. Final Action

EPA is approving Kentucky's August 29, 2012, SIP revision, submitted on behalf of the District, because it is consistent with the CAA. EPA believes that all of these changes are consistent with section 110 of the CAA and meet the regulatory requirements pertaining to SIPs, including CAA section 110(l), since these changes, with the exception to definition changes, are administrative in nature and will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

[1] 62 FR 27968 (May 22, 1997).

enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: August 16, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart S—Kentucky

■ 2. Section 52.920(c) is amended under Table 2 by:

■ a. Revising the entries for ''1.03'', ''1.08'', ''1.11'', ''1.19'', ''6.18'' and ''6.43''; and

■ b. Removing the entry for ''7.18''.

The revised text reads as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

TABLE 2—EPA-APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

Reg	Title/subject	EPA approval date	**Federal Register** notice	District effective date	Explanation
Reg 1—General Provisions					
*	*	*	*	*	*
1.03	Abbreviations and Acronyms	8/31/17	[Insert **Federal Register** citation].	1/16/08	
*	*	*	*	*	*
1.08	Administrative Procedures	8/31/17	[Insert **Federal Register** citation].	3/21/10	
*	*	*	*	*	*
1.11	Control of Open Burning	8/31/17	[Insert **Federal Register** citation].	1/16/08	
*	*	*	*	*	*
1.19	Administrative Hearings	8/31/17	[Insert **Federal Register** citation].	1/16/08	
*	*	*	*	*	*
Reg 6—Standards of Performance for Existing Affected Facilities					
*	*	*	*	*	*
6.18	Standards of Performance for Existing Solvent Metal Cleaning Equipment.	8/31/17	[Insert **Federal Register** citation].	5/9/03	
*	*	*	*	*	*
6.43	Volatile Organic Compound Reduction Requirements.	8/31/17	[Insert **Federal Register** citation].	2/15/06	
*	*	*	*	*	*

* * * * *

[FR Doc. 2017–18421 Filed 8–30–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–2017; FRL–9965–15–Region 4]

Air Plan Approval; Georgia; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Georgia state implementation plan (SIP). The regulations affected by this update have been previously submitted by Georgia and approved by EPA. This update affects the materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective August 31, 2017.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, GA 30303; and the National Archives and Records Administration. 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.* To view the materials at the Region 4 Office, EPA requests that you email the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

SUPPLEMENTARY INFORMATION:

I. Background

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the federally-approved SIP and are identified in part 52 ''Approval and Promulgation of Implementation Plans,'' title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is ''incorporated by reference.'' This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on proposed revisions containing new and/or revised state regulations. A submission from a state can revise one or more rules in their entirety or portions of rules, or even change a single word. The state indicates the changes in the submission (such as, by using redline/strikethrough) and EPA then takes action on the requested changes. EPA establishes a docket for its actions using a unique Docket Identification Number, which is listed in each action. These dockets and the complete submission are available for viewing on *www.regulations.gov.*

On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference, into the Code of Federal Regulations, materials approved by EPA into each state SIP. These changes revised the format for the identification of the SIP in 40 CFR part 52, streamlined the mechanisms for announcing EPA approval of revisions to a SIP, and streamlined the mechanisms for EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for EPA to maintain ''SIP Compilations'' that contain the federally-approved regulations and source specific permits submitted by each state agency. These SIP Compilations are contained in 3-ring binders and are updated primarily on an annual basis. Under the revised procedures, EPA must periodically publish an informational document in the rules section of the **Federal Register** notifying the public that updates have been made to a SIP Compilation for a particular state. EPA applied the 1997 revised procedures to Georgia on May 21, 1999 (64 FR 27699).

II. EPA Action

This action represents EPA's publication of the Georgia SIP Compilation update, appearing in 40 CFR part 52. In addition, notice is provided of the following corrections to Table (c) of section 52.570, as described below:

A. Under the ''State effective date'' and ''EPA approval date'' changing the 2-digit year to reflect a 4-digit year (for consistency) and correcting numerous CFR citations to reflect the first page of the preamble as opposed to the regulatory text page.

B. *391–3–1–.02(2)(c):* State effective date is revised to read ''8/9/2012'' and EPA approval date is revised to read ''4/9/2013, 78 FR 21065''.

C. *391–3–1–.02(2)(m):* Entry is removed from the table because EPA previously approved removal of this provision from the SIP. *See* 40 FR 45817 (October 3, 1975).

D. *391–3–1–.02(2)(ss):* Title/subject is revised to read ''Gasoline Transport Vehicles and Vapor Collection Systems''.

E. *391–3–1–.02(2)(ww):* Entry is removed from the table because EPA previously approved removal of this provision from the SIP. *See* 61 FR 33372 (June 27, 1996).

F. *391–3–1–.02(2)(jjj):* State effective date is revised to read ''3/12/2007'' and EPA approval date is revised to read ''11/27/2009, 74 FR 62249''.

G. *391–3–1–.02(2)(lll):* State effective date is revised to read ''4/12/2009'' and EPA approval date is revised to read ''9/28/2012, 77 FR 59554''.

H. *391–3–1–.02(6):* State effective date is revised to read ''3/12/2007'' and EPA approval date is revised to read ''11/27/2009, 74 FR 62249''.

I. *391–3–1–.02(7):* To remove previously-approved typographical error, the entry is revised to read ''As of 4/9/13 EPA is approving a revision to 391–3–1.02(7) to incorporate by reference the version of 40 CFR 52.21 as of July 20, 2011, with the exception of the $PM_{2.5}$ SMC and SILs thresholds and provisions promulgated in the October 20, 2010 $PM_{2.5}$ PSD Increment-SILs-SMC Rule at 40 CFR 52.21(i)(5) and (k)(2), respectively. *See* 78 FR 21065.''

J. *391–3–1–.02(12):* State effective date is revised to read ''7/25/2007'' and EPA approval date is revised to read ''11/27/2009, 74 FR 62249''.

K. *391–3–22:* entry is removed from table because the rule was moved to the Non-Regulatory Provisions.

III. Good Cause Exemption

EPA has determined that this action falls under the ''good cause'' exemption in the section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs and corrects typographical errors appearing in the **Federal Register**. Under section 553 of the APA, an agency may find good cause where procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Public comment for this administrative action is ''unnecessary'' and ''contrary to the public interest'' since the codification (and typographical corrections) only reflect existing law. Immediate notice of this action in the **Federal Register** benefits the public by providing the public notice of the updated Georgia SIP Compilation and notice of typographical corrections to the Georgia ''Identification of Plan'' portion of the **Federal Register**.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes

incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of previously EPA-approved regulations promulgated by Georgia and federally-effective prior to January 1, 2017. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this notice of administrative change does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

EPA also believes that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. This is because prior EPA rulemaking actions for each individual component of the Georgia SIP compilations previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA believes judicial review of this action under section 307(b)(1) of the CAA is not available.

List of Subjects in 40 CFR Part 52

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

Dated: July 7, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority for citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L—Georgia

■ 2. Section 52.570(b) and (c) are revised to read as follows:

§ 52.570 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) and (d) of this section with an EPA approval date prior to January 1, 2017, for Georgia was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraph (c) and (d) of this section with EPA approval dates after January 1, 2017, for Georgia will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street SW., Atlanta, GA 30303. To obtain the material, please call (404) 562–9022. You may inspect the material with an EPA approval date prior to January 1, 2017, for Georgia at the National Archives and Records Administration. For information on the

[1] *See* 62 FR 27968 (May 22, 1997).

availability of this material at NARA go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) *EPA approved Georgia regulations.*

EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.01	Definitions	8/14/2016	1/5/2017, 82 FR 1206	
Provisions				
391–3–1–.02:				
391–3–1–.02(1)	General Requirements	3/20/1979	9/18/1979, 44 FR 54047	
Emission Standards				
391–3–1–.02(2):				
391–3–1–.02(2)(a)	General Provisions	3/7/2012	9/28/2012, 77 FR 59554	Except for paragraph 391–3–1–.02(2)(a)1 (as approved on 3/16/06).
391–3–1–.02(2)(b)	Visible Emissions	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(c)	Incinerators	8/9/2012	4/9/2013, 78 FR 21065.	
391–3–1–.02(2)(d)	Fuel-burning Equipment	7/20/2005	2/9/2009, 75 FR 6309.	
391–3–1–.02(2)(e)	Particulate Emission from Manufacturing Processes.	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(f)	Normal Superphosphate Manufacturing Facilities.	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(g)	Sulfur Dioxide	7/17/2002	7/9/2003, 68 FR 40786.	
391–3–1–.02(2)(h)	Portland Cement Plants	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(i)	Nitric Acid Plants	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(j)	Sulfuric Acid Plants	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(k)	Particulate Emission from Asphaltic Concrete Hot Mix Plants.	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(l)	Conical Burners	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(n)	Fugitive Dust	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(o)	Cupola Furnaces for Metallurgical Melting.	1/27/1972	5/31/1972, 37 FR 10842.	
391–3–1–.02(2)(p)	Particulate Emissions from Kaolin and Fuller's Earth Processes.	12/16/1975	8/20/1976, 41 FR 35184.	
391–3–1–.02(2)(q)	Particulate Emissions from Cotton Gins.	1/27/1972	5/31/1972, 37 FR 10842.	
391–3–1–.02(2)(r)	Particulate Emissions from Granular and Mixed Fertilizer Manufacturing Units.	1/27/1972	5/31/1972, 37 FR 10842.	
391–3–1–.02(2)(t)	VOC Emissions from Automobile and Light Duty Truck Manufacturing.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(u)	VOC Emissions from Can Coating.	9/16/1992	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(v)	VOC Emissions from Coil Coating..	9/16/1992	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(w)	VOC Emissions from Paper Coating.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(x)	VOC Emissions from Fabric and Vinyl Coating.	9/16/1992	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(y)	VOC Emissions from Metal Furniture Coating.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(z)	VOC Emissions from Large Appliance Surface Coating..	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(aa)	VOC Emissions from Wire Coating.	9/16/1992	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(bb)	Petroleum Liquid Storage	1/9/1991	10/13/1992, 57 FR 46780.	
391–3–1–.02(2)(cc)	Bulk Gasoline Terminals	1/9/1991	10/13/1992, 57 FR 46780.	
391–3–1–.02(2)(dd)	Cutback Asphalt	1/17/1979	9/18/1979, 44 FR 54047.	
391–3–1–.02(2)(ee)	Petroleum Refinery	1/9/1991	10/13/1992, 57 FR 46780.	
391–3–1–.02(2)(ff)	Solvent Metal Cleaning	5/29/1996	4/26/1999, 64 FR 20186.	
391–3–1–.02(2)(gg)	Kraft Pulp Mills	6/3/1988	9/30/1988, 53 FR 38290.	
391–3–1–.02(2)(hh)	Petroleum Refinery Equipment Leaks.	6/24/1994	2/2/1996, 61 FR 3817.	
391–3–1–.02(2)(ii)	VOC Emissions from Surface Coating of Miscellaneous Metal Parts and Products.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(jj)	VOC Emissions from Surface Coating of Flat Wood Paneling.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(kk)	VOC Emissions from Synthesized Pharmaceutical Manufacturing.	12/18/1980	11/24/1981, 46 FR 57486.	

EPA-APPROVED GEORGIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.02(2)(ll)	VOC Emissions from the Manufacture of Pneumatic Rubber Tires.	12/18/1980	11/24/1981, 46 FR 57486.	
391–3–1–.02(2)(mm)	VOC Emissions from Graphic Arts Systems.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(nn)	VOC Emissions from External Floating Roof Tanks.	12/18/1980	11/24/1981, 46 FR 57486.	
391–3–1–.02(2)(oo)	Fiberglass Insulation Manufacturing Plants.	12/18/1980	11/24/1981, 46 FR 57486.	
391–3–1–.02(2)(pp)	Bulk Gasoline Plants	6/8/2008	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(qq)	VOC Emissions from Large Petroleum Dry Cleaners.	4/3/1991	10/13/1992, 57 FR 46780.	
391–3–1–.02(2)(rr)	Gasoline Dispensing Facilities—Stage I.	6/8/2008	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(ss)	Gasoline Transport Vehicles and Vapor Collection Systems.	6/8/2008	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(tt)	VOC Emissions from Major Sources.	6/8/2008	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(uu)	Visibility Protection	10/31/1985	1/28/1986, 51 FR 3466.	
391–3–1–.02(2)(vv)	Volatile Organic Liquid Handling and Storage.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(yy)	Emissions of Nitrogen Oxides from Major Sources.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(ccc).	VOC Emissions from Bulk Mixing Tanks.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(ddd)	VOC Emissions from Offset Lithography and Letterpress.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(eee)	VOC Emissions from expanded Polystyrene Products Manufacturing.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(fff)	Particulate Matter Emissions from Yarn Spinning Operations.	6/15/1998	12/2/1999, 64 FR 67491.	
391–3–1–.02(2)(hhh)	Wood Furniture Finishing and Cleaning Operations.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(jjj)	NO_X Emissions from Electric Utility Steam Generating Units.	3/12/2007	11/27/2009, 74 FR 62249.	
391–3–1–.02(2)(kkk)	VOC Emissions from Aerospace Manufacturing and Rework Facilities.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(lll)	NO_X Emissions from Fuel-burning Equipment.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(mmm)	NO_X Emissions from Stationary Gas Turbines and Stationary Engines used to Generate Electricity.	5/4/2014	9/1/2015, 80 FR 52627.	
391–3–1–.02(2)(nnn)	NO_X Emissions from Large Stationary Gas Turbines.	2/16/2000	7/10/2001, 66 FR 35906.	
391–3–1–.02(2)(ooo)	Heavy-Duty Diesel Engine Requirements.	12/28/2001	7/11/2002, 67 FR 45909.	
391–3–1–.02(2)(rrr)	NO_X Emissions from Small Fuel-Burning Equipment.	4/12/2009	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(vvv)	VOC Emissions from Coating Miscellaneous Plastic Parts and Products.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(yyy)	VOC Emissions from the use of Miscellaneous Industrial Adhesives.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(zzz)	VOC Emissions from Fiberglass Boat Manufacturing.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(2)(aaaa)	Industrial Cleaning Solvents.	3/7/2012	9/28/2012, 77 FR 59554.	
391–3–1–.02(3)	Sampling	6/15/1998	12/2/1999, 64 FR 67491.	
391–3–1–.02(4)	Ambient Air Standards	10/14/2014	7/31/2015, 80 FR 45609.	
391–3–1–.02(5)	Open Burning	7/13/2006	2/9/2009, 75 FR 6309.	
391–3–1–.02(6)	Source Monitoring	3/12/2007	11/27/2009, 74 FR 62249.	

EPA-APPROVED GEORGIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.02(7)	Prevention of Significant Deterioration of Air Quality (PSD).	8/9/2012	4/9/2013, 78 FR 21065	As of 4/9/13 EPA is approving a revision to 391–3–1–.02(7) to incorporate by reference the version of 40 CFR 52.21 as of July 20, 2011, with the exception of the $PM_{2.5}$ SMC and SILs thresholds and provisions promulgated in the October 20, 2010 $PM_{2.5}$ PSD Increment-SILs-SMC Rule at 40 CFR 52.21(i)(5) and (k)(2) respectively. On September 9, 2011 Georgia's PSD Rule 391–3–1–.02(7) incorporates by reference the regulations found at 40 CFR 52.21 as of June 3, 2010, with changes. This EPA action is approving the incorporation by reference with the exception of the following provisions: (1) The provisions amended in the Ethanol Rule which exclude facilities that produce ethanol through a natural fermentation process from the definition of ''chemical process plants'' in the major NSR source permitting program found at 40 CFR 52.21(b)(1)(i)(*a*) and (b)(1)(iii)(*f*); and (2) the administrative regulations amended in the Fugitive Emissions Rule. Additionally, this EPA action is not approving the ''automatic rescission clause'' provision at 391–3–1.02(7)(a)2.(iv). This rule contains NO_X as a precursor to ozone for PSD and NSR.
391–3–1.02(11)	Compliance Assurance Monitoring.	6/15/1998	12/2/1999, 64 FR 67491.	
391–3–1–.02(12)	Clean Air Interstate Rule NO_X Annual Trading Program.	7/25/2007	11/27/2009, 74 FR 62249.	
391–3–1–.02(13)	Clean Air Interstate Rule SO_2 Annual Trading Program.	2/28/2007	10/9/2007, 72 FR 57202.	
391–3–1–.03	Permits	8/9/2012	4/9/2013, 78 FR 21065	Changes specifically to (8)—Permit Requirements.
391–3–1–.04	Air Pollution Episodes	11/20/1975	8/20/1976, 41 FR 35184.	
391–3–1–.07	Inspections and Investigations.	11/20/1975	8/20/1976, 41 FR 35184.	
391–3–1–.08	Confidentiality of information.	11/20/1975	8/20/1976, 41 FR 35184.	
391–3–1–.09	Enforcement	11/22/1992	2/2/1996, 61 FR 3819.	
391–3–1–.10	Continuance of Prior Rules	11/22/1992	2/2/1996, 61 FR 3819.	
391–3–1–.15	Georgia Transportation Conformity and Consultation Interagency Rule.	10/6/2010	6/15/2012, 77 FR 35866..	
391–3–20	Enhanced Inspection and Maintenance.	12/28/2008	4/17/2009, 74 FR 17783.	

* * * * *

[FR Doc. 2017–18218 Filed 8–30–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–2017–NJ1; FRL–9967–14–Region 2]

Approval and Promulgation of Implementation Plans; New Jersey; Revised Format for Materials Being Incorporated by Reference; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting a final rule; administrative change, that was published in the **Federal Register** on July 3, 2017. In that document, EPA approved the revised format for materials submitted by New Jersey that have been incorporated by reference into its State Implementation Plan (SIP). An error in the docket number was identified and is being corrected in this action.

DATES: This rule is effective on August 31, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R02–2017–NJ1. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381.

SUPPLEMENTARY INFORMATION: EPA approved a final rule; administrative change published on July 3, 2017 (82 FR 30758). In that document, EPA approved the revised format for materials submitted by New Jersey that have been incorporated by reference into its SIP. The regulations and other materials affected by this format change have all been previously submitted by New Jersey and approved by EPA as SIP revisions. In that approval, EPA erroneously added the incorrect docket number. In this notice, the docket

number is revised to reflect the correct docket number.

Correction

In the final rule published in the **Federal Register** on July 3, 2017 (82 FR 30758), the following correction is made:

1. On page 30758, first column, ''EPA–R02–OAR–2016–0060'' is corrected to read ''EPA–R02–2017–NJ1''.

Dated: August 18, 2017.

Catherine R. McCabe,

Acting Regional Administrator, Region 2.

[FR Doc. 2017–18422 Filed 8–30–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2015–0526; FRL–9954–42–OAR]

RIN 2060–AS60

2015 Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule

Correction

In rule document 2016–28564 appearing on pages 89188–89274 in the issue of December 9, 2016, make the following correction:

40 CFR PART 98 [CORRECTED]

■ On page 89252, Table C–1 to Subpart C of Part 98 is corrected to read as set forth below:

TABLE C–1 TO SUBPART C OF PART 98—DEFAULT CO_2 EMISSION FACTORS AND HIGH HEAT VALUES FOR VARIOUS TYPES OF FUEL

[Default CO_2 emission factors and high heat values for various types of fuel]

Fuel type	Default high heat value	Default CO_2 emission factor
* * *	* * *	*
Petroleum products—solid	mmBtu/short ton	kg CO_2/mmBtu.
Petroleum Coke	30.00	102.41.
Petroleum products—gaseous	mmBtu/scf	kg CO_2/mmBtu.
Propane Gas	2.516×10^{-3}	61.46.
* * *	* * *	*

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[FR Doc. C1–2016–28564 Filed 8–30–17; 8:45 am]

BILLING CODE 1301–00–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 16–161; FCC 17–3]

Revisions to Public Inspection File Requirements—Broadcaster Correspondence File and Cable Principal Headend Location

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, changes to FCC Form 303–S (Application for Renewal of Broadcast Station License) associated with the Commission's decision in *Report and Order,* Revisions to Public Inspection File Requirements—Broadcaster Correspondence File and Cable Principal Headend Location. Specifically, OMB has approved the Commission's decision to revise Form 303–S to eliminate those sections of the form that require commercial TV broadcasters to submit with their renewal application a summary of written communications received from the public regarding violent programming (See FCC Form 303–S at p. 5 and instructions at p. 25). This document is consistent with the *Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of this change to FCC Form 303–S (See Public Inspection File R&O, 32 FCC Rcd at 1574–75, para 29).

DATES: The changes to FCC Form 303–S required as a result of the rule adopted at 82 FR 11406, February 23, 2017, are effective on August 31, 2017.

FOR FURTHER INFORMATION CONTACT: For additional information contact Cathy Williams, *Cathy.Williams@fcc.gov,* (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on August 11, 2017, OMB approved the changes to FCC Form 303–S ordered by the Commission in its *Report and Order,* FCC 17–3, published at 82 FR 11406, February 23, 2017. The OMB Control Number is 3060–0110. The Commission publishes this notice as an announcement of the effective date of the changes to the form. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–0110, in your correspondence. The Commission will also accept your comments via the Internet if you send them to *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval, on August 11, 2017, for the changes to FCC Form 303–S. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a

current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0110.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0110.

OMB Approval Date: August 11, 2017.

OMB Expiration Date: August 31, 2020.

Title: Application for Renewal of Broadcast Station License, FCC Form 303–S; Section 73.3555(d), Daily Newspaper Cross-Ownership.

Form Number: FCC Form 303–S.

Respondents: Business or other for profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,023 respondents and 4,023 responses.

Estimated Time per Response: 1.25–12 hours.

Frequency of Response: Every eight year report requirement, Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 154(i), 303, 307, and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Total Annual Burden: 10,797 hours. Total Annual Cost: $5,073,271.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On January 31, 2017, the Commission adopted a Report and Order (''*Public Inspection File R&O*'') in MB Docket No. 16–161, FCC 17–3, eliminating the requirement in sections 73.1202 and 73.3526(e)(9) of its rules that commercial broadcast stations retain in their public inspection file copies of letters and emails from the public. The Commission concluded that, because commercial TV licensees will no longer be required to maintain correspondence under the Commission's rules, under the terms of 47 U.S.C. 308(d) they also will not be required to file a summary of correspondence received regarding violent programming with their renewal application. The Commission directed the Media Bureau to revise the renewal application form and instructions consistent with this decision.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2017–18485 Filed 8–30–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2016–0051; FF09M21200–178–FXMB1231099BPP0]

RIN 1018–BB40

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2017–18 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Interim final rule.

SUMMARY: This rule prescribes special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. This rule allows the establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions in recognition of their authority to regulate hunting under established guidelines. The proposed rule for the 2017–18 season was delayed, requiring this interim final rule to allow Tribes to begin hunting in September. This interim rule will be replaced when the proposed rule is finalized.

DATES: This rule takes effect on September 1, 2017. Comments on this rule must be received by September 21, 2017.

ADDRESSES: You may submit comments on this interim rule and the related proposed rule (see 82 FR 39716, August 22, 2017) by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–MB–2016–0051.
- *U.S. mail or hand delivery:* Public Comments Processing, Attn: FWS–HQ–MB–2016–0051; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–1967.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act (MBTA) of July 3, 1918 (16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

In the August 22, 2017, **Federal Register** (82 FR 39716), we proposed special migratory bird hunting regulations for the 2017–18 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10–September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

Because some tribal seasons begin September 1, before the September 21, 2017, closing date of the comment period and finalization of the August 22,

2017, proposed rule (82 FR 39716), we are publishing this interim final rule to allow these tribes to conduct their hunting seasons. In compliance with the MBTA, this rule opens the seasons on the dates set forth in the rule portion of this document, thereby allowing individuals to legally partake in hunting on these lands. Without publication of this rule, hunting of migratory birds on certain Tribal ceded lands as requested by the Tribes would be prohibited until we can conclude the rulemaking process initiated by the August 22, 2017, proposed rule (82 FR 39716).

The provisions in this interim rule are the same as those set forth in our September 9, 2016, final rule (81 FR 62404) except that, in this interim rule, the season opening and closing dates are updated for the 2017–18 hunting seasons. In one case where we received a 2017–18 proposal from a Tribe (Klamath) that was not included in the 2016 final rule, we have included that proposal in these interim final rule regulations using the Tribe's approved seasons from a previous season's final rule for 2014–15 (79 FR 57405–57406, September 24, 2014). In other words, although the dates are different, the date ranges, bag limits, and other restrictions are identical to the previous final rule. We are using the provisions of the September 9, 2016, final rule (81 FR 62404) as the provisions for this interim final rule as the 2016 rule is the most recent Tribal final rule and the public is familiar with it, having already commented on it with the exception of the specific 2017–18 season dates. To summarize the 2016 final rule process: On May 27, 2016, we published proposed special migratory bird hunting regulations for the 2016–17 hunting season for certain Indian Tribes (81 FR 34226). The comment period for the May 27, 2016, proposed rule closed on June 27, 2016. We addressed the nine comments received in a final rule of September 9, 2016 (81 FR 62404). That final rule established regulatory provisions that are codified in title 50 of the Code of Federal Regulations at 50 CFR 20.110 and are the basis for this interim final rule.

Moreover, in the August 22, 2017, proposed rule (82 FR 39716), we proposed changes to the regulations in 50 CFR 20.110 that would establish in most cases substantially similar season opening and closing dates that are set forth in this interim rule. The proposed regulatory revisions are the result of a collaborative process between the Service and the Tribes. Comments are due on the proposed rule on September 21, 2017. Following our consideration of the comments received, we will issue a final rule that will replace the regulatory provisions in this interim rule. The public is also welcome to comment on this interim final rule during the comment period for the proposed rule that closes September 21.

With the changeover in administrations, the proposed rule was delayed, preventing issuance of a final rule in time for all Tribes' normal hunting seasons. We do not intend to use an interim final rule again for this purpose as doing so prevents Tribes from using provisions that they may have proposed at the beginning of the hunting season. We regret any confusion that this delay in the normal rulemaking process may cause. In future Tribal rulemaking actions, we expect to have a final rule in place before the start of the Tribes' hunting seasons.

The interim final rule described here sets migratory bird hunting regulations on certain Federal Indian reservations and ceded lands for the 2017–18 season. It sets hunting seasons, hours, areas, and limits for migratory game bird species on reservations and ceded territories. When the August 22, 2017, proposed rule (82 FR 39716) is finalized, that rule will replace this interim final rule. The new final rule may have extended dates, different bag limits, and other provisions compared to this interim final rule.

Population Status and Harvest

Each year we publish various species status reports that provide detailed information on the status and harvest of migratory game birds, including information on the methodologies and results. These reports are available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our Web site at *https://www.fws.gov/birds/surveys-and-data/reports-and-publications/population-status.php.*

We used the following reports: Adaptive Harvest Management, 2017 Hunting Season (August 2016); American Woodcock Population Status, 2016 (August 2016); Band-tailed Pigeon Population Status, 2016 (September 2016); Migratory Bird Hunting Activity and Harvest During the 2014–15 and 2015–16 Hunting Seasons (October 2016); Mourning Dove Population Status, 2016 (August 2016); Status and Harvests of Sandhill Cranes, Mid-continent, Rocky Mountain, Lower Colorado River Valley and Eastern Populations, 2016 (September 2016); and Waterfowl Population Status, 2016 (August 2016).

Required Determinations

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This action is not subject to Executive Order (E.O.) 13771 (82 FR 9339, February 3, 2017) because it is issued with respect to routine hunting and fishing activities.

National Environmental Policy Act (NEPA) Consideration

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2017–18,'' with its corresponding April 7, 2017, finding of no significant impact. The programmatic document, as well as the separate environmental assessments, is available on our Web site at *https://www.fws.gov/birds/index.php* or from the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from the annual migratory game bird hunting regulations, which includes the tribal hunting process, would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded

that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that the annual migratory bird hunting regulations, of which this rule is one part, are significant because these regulations have an annual effect of $100 million or more on the economy.

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

An economic analysis was prepared for the 2013–14 season. This analysis was based on data from the 2011 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). We used this analysis again for the 2017–18 season. This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) issue restrictive regulations allowing fewer days than those issued during the 2012–13 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations identical to the regulations in the 2012–13 season. For the 2013–14 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $317.8–$416.8 million. We also chose alternative 3 for the 2009–10, the 2010–11, the 2011–12, the 2012–13, the 2014–15, the 2015–16, the 2016–17, and the 2017–18 seasons. The 2013–14 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2016–0051.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, 2008, and 2013. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2013 Analysis was based on the 2011 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.5 billion at small businesses in 2013. Copies of the Analysis are available upon request from the Division of Migratory Bird Management (see **FOR FURTHER INFORMATION CONTACT**) or from *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2016–0051.

Small Business Regulatory Enforcement Fairness Act

This final rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule is part of a larger rulemaking effort that would have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This rule does not contain any new information collection that requires approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. OMB has reviewed and approved the information collection requirements associated with migratory bird surveys and assigned the following OMB control numbers:

- 1018–0019—North American Woodcock Singing Ground Survey (expires 5/31/2018).
- 1018–0023—Migratory Bird Surveys (expires 8/31/2020). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking would not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule would allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes. This rulemaking process is collaborative with

the Tribes, and we will continue to consult with the Tribes when we finalize the August 22 proposed rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Need for Interim Final Rule

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. Because of changes in the process for this season's rules, publication of the August 22, 2017, proposed rule (82 FR 39716) was delayed, requiring publication of this interim final rule.

The August 22, 2017, proposed rule provides the public the opportunity to comment. The public, having commented on last year's final rule (81 FR 62404; September 9, 2016) and other previous final rules, also had an opportunity to comment on the substance of the current interim final rule, and we addressed the nine comments received in the 2016 final rule. Furthermore, these tribal regulations have generally been similar the past several years, and with no significant controversy from the public.

It would be impracticable to finalize the August 22 proposed rule by September 1. But without this interim rule, the hunting of migratory birds on ceded and reservation lands during the normal fall seasons, which in some cases begin on September 1 each year, would be in violation of the MBTA. To respect the various Tribal treaties between the Tribal nations and the United States that allow for the treaty right to hunt waterfowl on these ceded lands, either for their cultural or religious exercise, sustenance, and/or materials for cultural use (*e.g.,* handicraft), the Department finds that it is in the public interest to publish this interim final rule. The Administrative Procedure Act under 5 U.S.C. 553(b)(B) allows an agency to make a rule effective immediately for good cause if ''impracticable, unnecessary, or contrary to the public interest.'' We find that undertaking the notice-and-comment procedures prior to making this rule effective is impracticable, unnecessary, and contrary to the public interest, and therefore the ''good cause'' exception under 5 U.S.C. 553(b)(B) applies.

In addition, we have good cause to waive the standard 30-day effective date for this interim final rule consistent with section 553(d)(3) of the Administrative Procedure Act, and this rule will, therefore, take effect immediately upon publication. This rule relieves a restriction, as just described. Delaying the effective date for 30 days would have detrimental effects on individuals seeking to hunt on ceded and reservation lands during the seasons that in some cases begin September 1 and on the businesses that support this activity.

Moreover, in the proposed rule that published in the **Federal Register** on August 22, 2017 (82 FR 39716), we proposed changes to the regulations in 50 CFR 20.110 that would establish in most cases substantially similar season opening and closing dates that are set forth in this interim rule. The proposed regulatory revisions are the result of a collaborative process between the Service and the Tribes. As described earlier in **SUPPLEMENTARY INFORMATION** and as set forth in **DATES**, comments are due on the proposed rule by September 21, 2017. Following our consideration of the comments received, we will issue a final rule that will replace the regulatory provisions in this interim rule.

Public Comments Solicited

We invite interested persons to submit written comments, suggestions, or recommendations regarding the interim final rule during the comment period for our proposed special migratory bird hunting regulations for the 2017–18 hunting season for certain Indian tribes, published August 22, 2017, in the **Federal Register** (82 FR 39716). Before promulgating final migratory game bird hunting regulations, we will consider all comments we receive. These comments, and any additional information we receive, may lead to final regulations that differ from these proposals or this interim final rule.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by September 21, 2017. We will post all comments in their entirety—including your personal identifying information—on *http://www.regulations.gov.* 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.

Comments and materials we receive, as well as supporting documentation we used in preparing this interim final rule and the August 22, 2017, proposed rule (82 FR 39716), will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 5275 Leesburg Pike, Falls Church, VA 22041–3803. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments we receive during the comment period and respond to them after the closing date in the preambles of any final rules.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

Accordingly, for the reasons set forth above, we amend part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations as follows:

PART 20—MIGRATORY BIRD HUNTING

■ 1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j;

Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

(**Note:** The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature.)

■ 2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

Unless specifically provided for below, all of the regulations contained in 50 CFR part 20 apply to the seasons listed herein.

(a) [Reserved.]

(b) *Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Tribal Members and Nontribal Hunters).*

Tribal Members Only

Ducks (Including Mergansers)

Season Dates: Open September 1, 2017, through March 9, 2018.

Daily Bag and Possession Limits: The Tribe does not have specific bag and possession restrictions for Tribal members. The season on harlequin duck is closed.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Nontribal Hunters

Ducks (Including Mergansers)

Season Dates: Open September 30, 2017, through January 7, 2018, and open January 13 through 17, 2018.

Scaup

Season Dates: Open September 30 through December 24, 2017.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, three scaup (when open), two canvasback, and two redheads. The possession limit is three times the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 and 25, respectively.

Geese

Dark Geese

Season Dates: Open September 30, 2017, through January 7, 2018, and open January 13 through 17, 2018.

Daily Bag and Possession Limits: 4 and 12, respectively.

Light Geese

Season Dates: Same as for dark geese.

Daily Bag and Possession Limits: 20 and 60, respectively.

General Conditions: Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are one-half hour before sunrise to one-half hour after sunset, and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(c) *Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only).*

Ducks

1854 and 1837 Ceded Territories

Season Dates: Begin September 9 and end November 30, 2017.

Daily Bag Limit: 18 ducks, including no more than 12 mallards (only 3 of which may be hens), 9 black ducks, 9 scaup, 9 wood ducks, 9 redheads, 9 pintails, and 9 canvasbacks.

Reservation

Season Dates: Begin September 1 and end November 30, 2017.

Daily Bag Limit: 12 ducks, including no more than 8 mallards (only 2 of which may be hens), 6 black ducks, 6 scaup, 6 redheads, 6 pintails, 6 wood ducks, and 6 canvasbacks.

Mergansers

1854 and 1837 Ceded Territories

Season Dates: Begin September 9 and end November 30, 2017.

Daily Bag Limit: 15 mergansers, including no more than 6 hooded mergansers.

Reservation

Season Dates: Begin September 1 and end November 30, 2017.

Daily Bag Limit: 10 mergansers, including no more than 4 hooded mergansers.

Canada Geese

1854 and 1837 Ceded Territories

Season Dates: Begin September 1 and end November 30, 2017.

Daily Bag Limit: 20 geese.

Reservation

Season Dates: Begin September 1 and end November 30, 2017.

Daily Bag Limit: 20 geese.

Coots and Common Moorhens (Common Gallinules)

1854 and 1837 Ceded Territories

Season Dates: Begin September 9 and end November 30, 2017.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Reservation

Season Dates: Begin September 1 and end November 30, 2017.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Sandhill Cranes: 1854 and 1837 Ceded Territories

Season Dates: Begin September 1 and end November 30, 2017.

Daily Bag Limit: Two sandhill cranes. Crane carcass tags are required prior to hunting.

Sora and Virginia Rails

All Areas

Season Dates: Begin September 1 and end November 30, 2017.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe

All Areas

Season Dates: Begin September 1 and end November 30, 2017.

Daily Bag Limit: Eight common snipe.

Woodcock

All Areas

Season Dates: Begin September 1 and end November 30, 2017.

Daily Bag Limit: Three woodcock.

Mourning Doves

All Areas

Season Dates: Begin September 1 and end November 30, 2017.

Daily Bag Limit: 30 mourning doves.

General Conditions

1. While hunting waterfowl, a tribal member must carry on his/her person a valid Ceded Territory License.

2. Shooting hours for migratory birds are one-half hour before sunrise to one-half hour after sunset.

3. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting.

4. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

5. There are no possession limits for migratory birds. For purposes of enforcing bag limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

(d) *Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only).*

Ducks

Season Dates: Open September 1, 2017, through January 20, 2018.

Daily Bag Limit: 25 ducks, which may include no more than 6 pintail, 4 canvasback, 6 black ducks, 1 hooded merganser, 6 wood ducks, 5 redheads, and 12 mallards (only 6 of which may be hens).

Canada and Snow Geese

Season Dates: Open September 1, 2017, through February 15, 2018.

Daily Bag Limit: 10 geese.

Other Geese (White-Fronted Geese and Brant)

Season Dates: Open September 20 through December 30, 2017.

Daily Bag Limit: Five geese.

Sora Rails, Common Snipe, and Woodcock

Season Dates: Open September 1 through November 14, 2017.

Daily Bag Limit: 10 rails, 10 snipe, and 5 woodcock.

Mourning Doves

Season Dates: Open September 1 through November 14, 2017.

Daily Bag Limit: 10 mourning doves.

Sandhill Crane

Season Dates: Open September 1 through November 14, 2017.

Daily Bag Limit: Two sandhill cranes, with a season limit of six.

General Conditions: A valid Grand Traverse Band Tribal license is required and must be in possession before taking any wildlife. Shooting hours for migratory birds are one-half hour before sunrise to one-half hour after sunset. All other basic regulations contained in 50 CFR part 20 are valid. Other tribal regulations apply, and may be obtained at the tribal office in Suttons Bay, Michigan.

(e) *Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only).*

The 2017–18 waterfowl hunting season regulations apply to all treaty areas (except where noted):

Ducks

Season Dates: Begin September 1 and end December 31, 2017.

Daily Bag Limit: 50 ducks in the 1837 and 1842 Treaty Area; 30 ducks in the 1836 Treaty Area.

Mergansers

Season Dates: Begin September 1 and end December 31, 2017.

Daily Bag Limit: 10 mergansers.

Geese

Season Dates: Begin September 1 and end December 31, 2017. In addition, any portion of the ceded territory that is open to State-licensed hunters for goose hunting outside of these dates will also be open concurrently for tribal members.

Daily Bag Limit: 20 geese in aggregate.

Other Migratory Birds

Coots and Common Moorhens (Common Gallinules)

Season Dates: Begin September 1 and end December 31, 2017.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

Sora and Virginia Rails

Season Dates: Begin September 1 and end December 31, 2017.

Daily Bag and Possession Limits: 20, singly, or in the aggregate, 25.

Common Snipe

Season Dates: Begin September 1 and end December 31, 2017.

Daily Bag Limit: 16 common snipe.

Woodcock

Season Dates: Begin September 6 and end December 31, 2017.

Daily Bag Limit: 10 woodcock.

Mourning Dove: 1837 and 1842 Ceded Territories Only

Season Dates: Begin September 1 and end November 29, 2017.

Daily Bag Limit: 15 mourning doves.

Sandhill Cranes: 1837 and 1842 Ceded Territories Only

Season Dates: Begin September 1 and end December 31, 2017.

Daily Bag Limit: 2 cranes.

Swans: 1837 and 1842 Ceded Territories Only

Season Dates: Begin November 1 and end December 31, 2017.

Daily Bag Limit: 2 swans. All harvested swans must be registered by presenting the fully-feathered carcass to a tribal registration station or GLIFWC warden. If the total number of trumpeter swans harvested reaches 10, the swan season will be closed by emergency tribal rule.

General Conditions

A. All tribal members are required to obtain a valid tribal waterfowl hunting permit.

B. Except as otherwise noted, tribal members are required to comply with tribal codes that are no less restrictive than the model ceded territory conservation codes approved by Federal courts in the *Lac Courte Oreilles* v. *State of Wisconsin (Voigt)* and *Mille Lacs Band* v. *State of Minnesota* cases. Chapter 10 in each of these model codes regulates ceded territory migratory bird hunting. Both versions of Chapter 10 parallel Federal requirements as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting. They also automatically incorporate by reference the Federal migratory bird regulations.

C. Particular regulations of note include:

1. Nontoxic shot is required for all waterfowl hunting by tribal members.

2. Tribal members in each zone must comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

3. There are no possession limits, with the exception of 2 swans (in the aggregate) and 25 rails (in the aggregate). For purposes of enforcing bag limits, all migratory birds in the possession and custody of tribal members on ceded lands are considered to have been taken on those lands unless tagged by a tribal or State conservation warden as taken on reservation lands. All migratory birds that fall on reservation lands do not

count as part of any off-reservation bag or possession limit.

4. The baiting restrictions included in the respective section 10.05(2)(h) of the model ceded territory conservation codes will be amended to include language which parallels that in place for nontribal members as published at 64 FR 29799, June 3, 1999.

5. There are no shell limit restrictions.

6. Hunting hours are from 30 minutes before sunrise to 30 minutes after sunset.

(f) *Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nontribal Hunters).*

Ducks (Including Mergansers)

Season Dates: Open October 14 through November 30, 2017.

Daily Bag and Possession Limits: The daily bag limit is seven, including no more than two hen mallards, one pintail, two redheads, two canvasback, and three scaup. The possession limit is three times the daily bag limit.

Canada Geese

Season Dates: Open October 14 through November 30, 2017.

Daily Bag and Possession Limits: Two and six, respectively.

General Conditions: Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Jicarilla Tribe also apply on the reservation.

(g) *Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters).*

Nontribal Hunters on Reservation

Geese

Season Dates: Open September 9 through September 10, 2017; open September 16 through September 17, 2017; and open October 1, 2017, through January 8, 2018. During these periods, days to be hunted are specified by the Kalispel Tribe. Nontribal hunters should contact the Tribe for more detail on hunting days.

Daily Bag and Possession Limits: 5 Canada geese for the early season, and 3 light geese and 4 dark geese, for the late season. The daily bag limit is 2 brant (when the State's season is open) and is in addition to dark goose limits for the late-season. The possession limit is twice the daily bag limit.

Ducks

Season Dates: Open September 23 through September 24, 2017; open September 19 through September 30, 2017; and open October 1, 2017, through January 8, 2018. During these periods, days to be hunted are specified by the Kalispel Tribe. Nontribal hunters should contact the Tribe for more detail on hunting days.

Scaup

Season Dates: Open September 23 through December 17, 2017.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 1 pintail, 1 canvasback, 3 scaup (when open), and 2 redheads. The possession limit is twice the daily bag limit.

Tribal Hunters Within Kalispel Ceded Lands

Ducks

Season Dates: Open October 10, 2017, through January 31, 2018.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 2 pintail, 1 canvasback, 3 scaup, and 2 redheads. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 10, 2017, through January 31, 2016.

Daily Bag Limit: 6 light geese and 4 dark geese. The daily bag limit is 2 brant and is in addition to dark goose limits.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

(h) *Klamath Tribe, Chiloquin, Oregon (Tribal Members Only).*

Ducks

Season Dates: Open October 7, 2017, through January 31, 2018.

Daily Bag and Possession Limits: 9 and 18 ducks, respectively.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 9 and 18 coots, respectively.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 9 and 18 geese, respectively.

General Conditions: The Klamath Tribe provides its game management officers, biologists, and wildlife technicians with regulatory enforcement authority, and has a court system with judges that hear cases and set fines. Nontoxic shot is required. Shooting hours are one-half hour before sunrise to one-half hour after sunset.

(i) *Leech Lake Band of Ojibwe, Cass Lake, Minnesota (Tribal Members Only).*

Ducks

Season Dates: Open September 16 through December 31, 2017.

Daily Bag Limits: 10 ducks, including no more than 5 pintail, 5 canvasback, and 5 black ducks.

Geese

Season Dates: Open September 1 through December 31, 2017.

Daily Bag Limits: 10 geese.

General: Possession limits are twice the daily bag limits. Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required. Use of live decoys, bait, and commercial use of migratory birds are prohibited. Waterfowl may not be pursued or taken while using motorized craft.

(j) *Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only).*

1836 Ceded Territory and Tribal Reservation

Ducks

Season Dates: Open September 9, 2017, through January 26, 2018.

Daily Bag Limits: 12 ducks, including no more than 6 mallards (2 of which may be hens), 3 black ducks, 3 redheads, 3 wood ducks, 2 pintail, 1 hooded merganser, and 2 canvasback.

Canada Geese

Season Dates: Open September 1, 2017, through February 4, 2018.

Daily Bag Limit: Five.

White-Fronted Geese, Brant, and Snow Geese

Season Dates: Open September 8 through December 10, 2017.

Daily Bag Limit: Five.

Woodcock, Mourning Doves, Snipe, and Sora and Virginia Rails

Season Dates: Open September 1 through November 12, 2017.

Daily Bag Limit: 5 woodcock and 10 each of the other species.

General conditions are as follows:

A. All tribal members will be required to obtain a valid tribal resource card and 2016–17 hunting license.

B. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel all Federal regulations contained in 50 CFR part 20. Shooting hours will be from one-half hour before sunrise to sunset.

C. Particular regulations of note include:

(1) Nontoxic shot will be required for all waterfowl hunting by tribal members.

(2) Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

D. Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

E. Possession limits are twice the daily bag limits.

(k) *The Little Traverse Bay Bands of Odawa Indians, Petoskey, Michigan (Tribal Members Only).*

Ducks

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag Limits: 20 ducks, including no more than 5 hen mallards, 5 black ducks, 5 redheads, 5 wood ducks, 5 pintail, 5 scaup, and 5 canvasback.

Mergansers

Season Dates: Open September 15, 2017, through January 31, 2018.

Daily Bag Limits: 10 mergansers, including no more than 5 hooded mergansers.

Coots and Gallinules

Season Dates: Open September 15 through December 31, 2017.

Daily Bag Limit: 20.

Canada Geese

Season Dates: Open September 1, 2017, through February 8, 2018.

Daily Bag Limit: 20 in the aggregate.

Sora and Virginia Rails

Season Dates: Open September 1 through December 31, 2017.

Daily Bag Limit: 20.

Snipe

Season Dates: Open September 1 through December 31, 2017.

Daily Bag Limit: 16.

Mourning Doves

Season Dates: Open September 1 through November 14, 2017.

Daily Bag Limit: 15.

Woodcock

Season Dates: Open September 1 through December 1, 2017.

Daily Bag Limit: 10.

Sandhill Cranes

Season Dates: Open September 1 through December 1, 2017.

Daily Bag Limit: 1.

General: Possession limits are twice the daily bag limits.

(l) *Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters).*

Tribal Members

Ducks, Mergansers, and Coots

Season Dates: Open September 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: Six ducks, including no more than two hen mallards and five mallards total, two pintail, two redheads, two canvasback, three wood ducks, three scaup, two bonus teal during the first 16 days of the season, and one mottled duck. Coot daily bag limit is 15. Merganser daily bag limit is five, including no more than two hooded mergansers. The possession limit is three times the daily bag limit.

Canada Geese

Season Dates: Open September 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: 6 and 18, respectively.

White-Fronted Geese

Season Dates: Open September 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: Two and six, respectively.

Light Geese

Season Dates: Open September 1, 2017, through March 10, 2018.

Daily Bag Limit: 20.

Nontribal Hunters

Ducks (Including Mergansers and Coots)

Season Dates: Open October 7, 2017, through January 11, 2018.

Daily Bag and Possession Limits: Six ducks, including five mallards (no more of which can be two hen mallards), three scaup, two canvasback, two redheads, three wood ducks, one mottled duck, and one pintail. Coot daily bag limit is 15. Merganser daily bag limit is five, including no more than two hooded mergansers. The possession limit is three times the daily bag limit.

Canada Geese

Season Dates: Open October 28, 2017, through February 11, 2018.

Daily Bag and Possession Limits: 6 and 18, respectively.

White-fronted Geese

Season Dates: Open October 28, 2017, through January 23, 2018.

Daily Bag and Possession Limits: Two and six, respectively.

Light Geese

Season Dates: Open October 28, 2017, through February 11, 2018.

Daily Bag and Possession Limits: 50 and no possession limit.

General Conditions: All hunters must comply with the basic Federal migratory bird hunting regulations in 50 CFR part 20, including the use of steel shot and shooting hours. Nontribal hunters must possess a validated Migratory Bird Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the Tribe.

(m) [Reserved.]

(n) *Makah Indian Tribe, Neah Bay, Washington (Tribal Members).*

Band-Tailed Pigeons

Season Dates: Open September 22 through October 23, 2017.

Daily Bag Limit: Two band-tailed pigeons.

Ducks and Coots

Season Dates: Open September 23, 2017, through January 28, 2018.

Daily Bag Limit: Seven ducks including no more than five mallards (only two of which can be a hen), one redhead, one pintail, three scaup, and one canvasback. The seasons on wood duck and harlequin are closed. The coot daily bag limit is 25.

Geese

Season Dates: Open September 23, 2017, through January 28, 2018.

Daily Bag Limit: Four, including no more than one brant. The seasons on Aleutian and dusky Canada geese are closed.

General Conditions

All other Federal regulations contained in 50 CFR part 20 apply. The following restrictions also apply:

1. As per Makah Ordinance 44, only shotguns may be used to hunt any species of waterfowl. Additionally, shotguns must not be discharged within 0.25 miles of an occupied area.

2. Hunters must be eligible, enrolled Makah tribal members and must carry their Indian Treaty Fishing and Hunting Identification Card while hunting. No tags or permits are required to hunt waterfowl.

3. The Cape Flattery area is open to waterfowl hunting, except in designated wilderness areas, or within 1 mile of Cape Flattery Trail, or in any area that is closed to hunting by another ordinance or regulation.

4. The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited.

5. Steel or bismuth shot only for waterfowl is allowed; the use of lead shot is prohibited.

6. The use of dogs is permitted to hunt waterfowl.

7. Shooting hours for all species of waterfowl are one-half hour before sunrise to sunset.

8. Open hunting areas are: GMUs 601 (Hoko), a portion of the 602 (Dickey) encompassing the area north of a line between Norwegian Memorial and east to Highway 101, and 603 (Pysht).

(o) *Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters).*

Band-Tailed Pigeons

Season Dates: Open September 1 through September 30, 2017.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1 through September 30, 2017.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks (Including Mergansers and Coots)

Season Dates: Open September 23, 2017, through January 7, 2018.

Scaup

Season Dates: Open September 23 through December 17, 2017.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one mottled duck, two canvasback, three scaup (when open), two redheads, and one pintail. Coot daily bag limit is 25. Merganser daily bag limit is seven. The possession limit is three times the daily bag limit.

Canada Geese

Season Dates: Open September 23, 2017, through January 7, 2018.

Daily Bag and Possession Limits: 4 and 12, respectively.

General Conditions: Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(p) *Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only).*

Ducks (Including Mergansers)

Season Dates: Open September 16 through December 3, 2017.

Daily Bag and Possession Limits: Six, including no more than six mallards (three hen mallards), six wood ducks, one redhead, two pintail, and one hooded merganser. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1 through December 31, 2017.

Daily Bag and Possession Limits: 5 Canada geese with a possession limit of 10. A seasonal quota of 500 birds is adopted. If the quota is reached before the season concludes, the season will be closed at that time.

Woodcock

Season Dates: Open September 3 through November 6, 2017.

Daily Bag and Possession Limits: Two and four woodcock, respectively.

Doves

Season Dates: Open September 2 through November 5, 2017.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: Tribal member shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe must comply with all State of Wisconsin regulations, including season dates, shooting hours, and bag limits, which differ from tribal member seasons. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: Tribal members are exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity is not limited to three shells.

(q) *Point No Point Treaty Council, Kingston, Washington (Tribal Members Only).*

Jamestown S'Klallam Tribe

Ducks

Season Dates: Open September 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, four scoters, and two redheads. Possession limit is twice the daily bag limit. Bag and possession limits for harlequin ducks is one per season.

Geese

Season Dates: Open September 9, 2017, through March 10, 2018.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on dusky Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open January 10 through January 25, 2018.

Daily Bag and Possession Limits: Two and four, respectively.

Coots

Season Dates: Open September 13, 2017, through February 1, 2018.

Daily Bag and Possession Limits: 25 and 50 coots, respectively.

Mourning Doves

Season Dates: Open September 13, 2017, through January 18, 2018.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 13, 2017, through March 10, 2018.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeons

Season Dates: Open September 13, 2017, through January 18, 2018.

Daily Bag and Possession Limits: Two and four pigeons, respectively.

Port Gamble S'Klallam Tribe

Ducks

Season Dates: Open September 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, four scoters, and two redheads. Possession limit is twice the daily bag limit. Bag and possession limits for harlequin ducks is one per season.

Geese

Season Dates: Open September 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on dusky Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open November 9, 2017, through January 31, 2018.

Daily Bag and Possession Limits: Two and four, respectively.

Coots

Season Dates: Open September 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: 7 and 14 coots, respectively.

Mourning Doves

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeons

Season Dates: Open September 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: Two and four pigeons, respectively.

General: Tribal members must possess a tribal hunting permit from the Point No Point Tribal Council pursuant to tribal law. Hunting hours are from one-half hour before sunrise to sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(r) *The Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation, Mt. Pleasant, Michigan (Tribal Members Only).*

Mourning Doves

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag Limit: 25 doves.

Ducks

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag Limits: 20, including no more than 5 hen mallards, 5 wood ducks, 5 black ducks, 5 pintail, 5 redhead, 5 scaup, and 5 canvasback.

Mergansers

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag Limit: 10, including no more than 5 hooded mergansers.

Canada Geese

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag Limit: 20 in the aggregate.

Coots and Gallinule

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag Limit: 20 in the aggregate.

Woodcock

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag Limits: 10.

Common Snipe

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag Limits: 16.

Sora and Virginia Rails

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag Limits: 20 in the aggregate.

Sandhill Crane

Season Dates: Open September 1, 2017, through January 31, 2018.

Daily Bag Limits: One.

General: Possession limits are twice the daily bag limits except for rails, of which the possession limit equals the daily bag limit (20). Tribal members must possess a tribal hunting permit from the Sault Ste. Marie Tribe pursuant to tribal law. Shooting hours are one-half hour before sunrise until one-half hour after sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(s) *Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, Michigan (Tribal Members Only).*

Mourning Doves

Season Dates: Open September 1 through November 14, 2017.

Daily Bag Limit: 10 doves.

Teal

Season Dates: Open September 1 through December 31, 2017.

Daily Bag Limits: 20 in the aggregate.

Ducks

Season Dates: Open September 15 through December 31, 2017.

Daily Bag Limits: 20, including no more than 10 mallards (only 5 of which may be hens), 5 canvasback, 5 black duck, and 5 wood duck.

Mergansers

Season Dates: Open September 15 through December 31, 2017.

Daily Bag Limit: 10 in the aggregate.

Geese

Season Dates: Open September 1 through December 31, 2017.

Daily Bag Limit: 20 in the aggregate.

Coots and Gallinule

Season Dates: Open September 1 through December 31, 2017.

Daily Bag Limit: 20 in the aggregate.

Woodcock

Season Dates: Open September 2 through December 1, 2017.

Daily Bag Limits: 10.

Common Snipe

Season Dates: Open September 15 through December 31, 2017.

Daily Bag Limits: 16.

Sora and Virginia Rails

Season Dates: Open September 1 through December 31, 2017.

Daily Bag Limits: 20 in the aggregate.

General: Possession limits are twice the daily bag limits except for rails, of which the possession limit equals the daily bag limit (20). Tribal members must possess a tribal hunting permit from the Sault Ste. Marie Tribe pursuant to tribal law. Shooting hours are one-half hour before sunrise until one-half hour after sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(t) *Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Hunters).*

Ducks, Including Scaup

Duck Season Dates: Open October 7, 2017, through January 19, 2018.

Scaup Season Dates: Open October 7, 2017, through December 31, 2018.

Daily Bag and Possession Limits: Seven ducks and mergansers, including no more than two hen mallards, one pintail, three scaup, two canvasback, and two redheads. The possession limit is three times the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots. The possession limit is three times the daily bag limit.

Common Snipe

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 8 and 24 snipe, respectively.

Canada Geese

Season Dates: Open October 7, 2017, through January 19, 2018.

Daily Bag and Possession Limits: 4 and 12, respectively.

White-Fronted Geese

Season Dates: Open October 7, 2017, through January 19, 2018.

Daily Bag and Possession Limits: 10 and 30, respectively.

Light Geese

Season Dates: Open October 7, 2017, through January 19, 2018.

Daily Bag and Possession Limits: 20 and 60, respectively

General Conditions: Nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must possess a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Other regulations

established by the Shoshone–Bannock Tribes also apply on the reservation.

(u) [Reserved.]

(v) *Spokane Tribe of Indians, Spokane Indian Reservation and Ceded Lands, Wellpinit, Washington (Tribal Members Only).*

Ducks

Season Dates: Open September 2, 2017, through January 31, 2018.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, two pintail, two canvasback, three scaup, and two redheads. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 2, 2017, through January 31, 2018.

Daily Bag and Possession Limits: Four dark geese and six light geese. Possession limit is twice the daily bag limit.

General Conditions: All tribal hunters must have a valid Tribal identification card on his or her person while hunting. Shooting hours are one-half hour before sunrise to sunset, and steel shot is required for all migratory bird hunting. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(w) [Reserved.]

(x) *Stillaguamish Tribe of Indians, Arlington, Washington (Tribal Members Only).*

Common Snipe

Season Dates: Open October 1, 2017, through January 31, 2018.

Daily Bag and Possession Limits: 10 and 30, respectively.

Ducks

Season Dates: Open October 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: 10 ducks. The possession limit is three times the daily bag limit.

Coots

Season Dates: Open October 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: 25 coots. The possession limit is three times the daily bag limit.

Geese

Season Dates: Open October 1, 2017, through March 10, 2018.

Daily Bag and Possession Limits: 6 and 18, respectively. The season on brant is closed.

General Conditions: Tribal members hunting on lands will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, which will be enforced by the Stillaguamish Tribal Law Enforcement. Tribal members are required to use steel shot or a nontoxic shot as required by Federal regulations.

(y) *Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only).*

Ceded Territory and Swinomish Reservation

Ducks and Mergansers

Season Dates: Open September 1, 2017, through March 9, 2018.

Daily Bag and Possession Limits: 20 and 40, respectively.

Canada Geese

Season Dates: Open September 1, 2017, through March 9, 2018.

Daily Bag and Possession Limits: 10 and 20 geese, respectively.

Brant

Season Dates: Open September 1, 2017, through March 9, 2018.

Daily Bag and Possession Limits: 5 and 10 brant, respectively.

Coots

Season Dates: Open September 1, 2017, through March 9, 2018.

Daily Bag and Possession Limits: 25 and 75 coots, respectively.

Mourning Dove

Season Dates: Open September 1, 2017, through March 9, 2018.

Daily Bag and Possession Limits: 15 and 30 mourning dove, respectively.

Band-Tailed Pigeon

Season Dates: Open September 1, 2017, through March 9, 2018.

Daily Bag and Possession Limits: Three and six band-tailed pigeon, respectively.

(z) *The Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members Only).*

Ducks and Mergansers

Season Dates: Open September 3, 2017, through February 28, 2018.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, two canvasback, three scaup, and two redheads. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 3, 2017, through February 28, 2018.

Daily Bag and Possession Limits: Seven geese, including no more than four cackling and dusky Canada geese. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open September 3, 2017, through February 28, 2018.

Daily Bag and Possession Limits: Two and four brant, respectively.

Coots

Season Dates: Open September 3, 2017, through February 28, 2018.

Daily Bag and Possession Limits: 25 and 25 coots, respectively.

Snipe

Season Dates: Open September 3, 2017, through February 28, 2018.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

General Conditions: All tribal hunters must have a valid Tribal identification card on his or her person while hunting. All nontribal hunters must obtain and possess while hunting a valid Tulalip Tribe hunting permit and be accompanied by a Tulalip Tribal member. Shooting hours are one-half hour before sunrise to sunset, and steel shot is required for all migratory bird hunting. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(aa) *Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only).*

Mourning Doves

Season Dates: Open September 1 through December 31, 2017.

Daily Bag and Possession Limits: 12 and 15 mourning doves, respectively.

Ducks

Season Dates: Open October 1, 2017, through February 28, 2018.

Daily Bag and Possession Limits: 15 and 20, respectively.

Coots

Season Dates: Open October 1, 2017, through February 15, 2018.

Daily Bag and Possession Limits: 20 and 30, respectively.

Geese

Season Dates: Open October 1, 2017, through February 28, 2018.

Daily Bag and Possession Limits: 7 and 10 geese, respectively.

Brant

Season Dates: Open November 1 through November 10, 2017.

Daily Bag and Possession Limits: Two and two, respectively.

General Conditions: Tribal members must have the tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting

regulations found in 50 CFR part 20, except shooting hours would be 15 minutes before official sunrise to 15 minutes after official sunset.

(bb) *Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only).*

Teal

Season Dates: Open October 9, 2017, through February 17, 2018.

Daily Bag Limits: 10 teal.

Ducks

Season Dates: Open October 9, 2017, through February 17, 2018.

Daily Bag Limits: Six ducks, including no more than four hen mallards, six black ducks, four mottled ducks, one fulvous whistling duck, four mergansers, three scaup, two hooded merganser, three wood ducks, one canvasback, two redheads, and two pintail. The season is closed for harlequin ducks.

Sea Ducks

Season Dates: Open October 2, 2017, through February 17, 2018.

Daily Bag Limits: Seven ducks including no more than four of any one species (only one of which may be a hen eider).

Woodcock

Season Dates: Open October 9 through November 25, 2017.

Daily Bag Limits: Three woodcock.

Canada Geese

Season Dates: Open September 4 through 16, 2017, and open October 23, 2017, through February 17, 2018.

Daily Bag Limits: Eight Canada geese.

Snow Geese

Season Dates: Open September 4 through 16, 2017, and open November 20, 2017, through February 17, 2018.

Daily Bag Limits: 15 snow geese.

Sora and Virginia Rails

Season Dates: Open September 4 through November 4, 2017.

Daily Bag Limits: 5 sora and 10 Virginia rails.

Snipe

Season Dates: Open September 4 through December 9, 2017.

Daily Bag Limits: Eight snipe.

General Conditions: Shooting hours are one-half hour before sunrise to sunset. Nontoxic shot is required. All other basic Federal migratory bird hunting regulations contained in 50 CFR part 20 will be observed.

(cc) *White Earth Band of Ojibwe, White Earth, Minnesota (Tribal Members Only).*

Ducks

Season Dates: Open September 9 through December 17, 2017.

Daily Bag Limit for Ducks: 10 ducks, including no more than 2 female mallards, 1 pintail, and 1 canvasback.

Mergansers

Season Dates: Open September 9 through December 17, 2017.

Daily Bag Limit for Mergansers: Five mergansers, including no more than two hooded mergansers.

Geese

Season Dates: Open September 1 through December 17, 2017.

Daily Bag Limit: 12 geese through September 22, 2017, and 5 thereafter.

Coots

Season Dates: Open September 1 through November 30, 2017.

Daily Bag Limit: 20 coots.

Snipe

Season Dates: Open September 1 through November 30, 2017.

Daily Bag Limit: 10 snipe.

Mourning Dove

Season Dates: Open September 1 through November 30, 2017.

Daily Bag Limit: 25 mourning dove.

Woodcock

Season Dates: Open September 1 through November 30, 2017.

Daily Bag Limit: 10 woodcock.

Rail

Season Dates: Open September 1 through November 30, 2017.

Daily Bag Limit: 25 rail.

General Conditions: Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required. All other basic Federal migratory bird hunting regulations contained in 50 CFR part 20 will be observed.

(dd) *White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters).*

Band-Tailed Pigeons (Wildlife Management Unit 10 and Areas South of Y–70 and Y–10 in Wildlife Management Unit 7, Only)

Season Dates: Open September 1 through 15, 2017.

Daily Bag and Possession Limits: Three and six pigeons, respectively.

Mourning Doves (Wildlife Management Unit 10 and Areas South of Y–70 and Y–10 in Wildlife Management Unit 7, Only)

Season Dates: Open September 1 through 15, 2017.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks and Mergansers

Season Dates: Open October 14, 2017, through January 28, 2018.

Scaup

Season Dates: Open November 4, 2017, through January 28, 2018.

Daily Bag Limits: Seven including no more than two redheads, one pintail, three scaup (when open), seven mallards (including no more than two hen mallards), and two canvasback.

Possession Limits: Twice the daily bag limit.

Coots

Season Dates: Open October 15, 2017, through January 29, 2018.

Daily Bag and Possession Limits: 25 and 50, respectively.

Canada Geese

Season Dates: Open October 14, 2017, through January 28, 2018.

Daily Bag and Possession Limits: Three and six Canada geese, respectively.

General Conditions: All nontribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all nontribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking.

Dated: August 24, 2017.

Todd D. Willens,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2017–18401 Filed 8–30–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150121066–5717–02]

RIN 0648–XF634

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason General category retention limit adjustment.

SUMMARY: The Atlantic bluefin tuna (BFT) General category is currently closed and will reopen on September 1, 2017. NMFS is updating the adjustment of the BFT General category daily retention limit that will take effect beginning September 1, 2017, from the recently adopted two large medium or giant BFT per vessel per day/trip to one large medium or giant BFT per vessel per day/trip. This action is based on updated information about the availability of BFT and quota after considering the regulatory determination criteria regarding inseason adjustments and applies to Atlantic Tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels when fishing commercially for BFT.

DATES: Effective September 1, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Atlantic Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The base quota for the General category is 466.7 mt. See § 635.27(a). Each of the General category time periods (January, June through August, September, October through November, and December) is allocated a ''subquota'' or portion of the annual General category quota. Although it is called the ''January'' subquota, the regulations allow the General category fishery under this quota to continue until the subquota is reached or March 31, whichever comes first. The subquotas for each time period are as follows: 24.7 mt for January; 233.3 mt for June through August; 123.7 mt for September; 60.7 mt for October through November; and 24.3 mt for December. Any unused General category quota rolls forward within the fishing year, which coincides with the calendar year, from one time period to the next, and is available for use in subsequent time periods. On December 19, 2016, NMFS published an inseason action transferring 16.3 mt of BFT quota from the December 2017 subquota to the January 2017 subquota period (81 FR 91873). For 2017, NMFS also transferred 40 mt from the Reserve to the General category effective March 2, resulting in an adjusted General category quota of 506.7 mt (82 FR 12747, March 7, 2017).

Adjustment of General Category Daily Retention Limit

The default General category retention limit is one large medium or giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) per vessel per day/trip (§ 635.23(a)(2)).

Thus far this year, NMFS adjusted the daily retention limit for the 2017 January subquota period from the default level of one large medium or giant BFT to three large medium BFT (81 FR 91873, December 19, 2016). NMFS closed the January 2017 fishery on March 29 (82 FR 16136, April 3, 2017). NMFS adjusted the daily retention limit from the default level of one large medium or giant BFT to four large medium or giant BFT for the June through August 2017 subquota period (82 FR 22616, May 17, 2017). Effective August 5, 2017, NMFS reduced the daily retention limit from four to two large medium or giant BFT for the remainder of 2017, and indicated that, if needed, additional adjustments would be published in the **Federal Register** (82 FR 36689, August 7, 2017). Upon determining that the June through August 2017 subquota of 233.3 mt had been reached, NMFS closed the General category fishery for the June through August period effective August 16, 2017 (82 FR 39047, August 17, 2017).

Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of five per vessel based on consideration of the relevant criteria provided under § 635.27(a)(8). NMFS has considered the relevant regulatory determination criteria and their applicability to the General category BFT retention limit for the September, October through November, and December subquota time periods. These considerations include, but are not limited to, the following:

NMFS considered the catches and catch rates of the General category quota to date (including during the summer/fall and winter fisheries in the last several years), and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii) and (ix)). NMFS previously considered catch and catch rate information from July and August and determined that a two-fish limit was appropriate for the remainder of the year. Subsequently, however, a large number of landings occurred in a short time period, increasing the overall daily catch rates and indicating increased availability of fish on the fishing grounds, and participation in the fishery. Through the August 16, 2017 General category closure date, 2017 General category landings were approximately 433 mt, which is 93 and 85 percent of the annual base and adjusted 2017 General category quotas, respectively. Landings from June 1 through the August 16 closure date were 325.3 mt, representing 139 percent of the General category subquota for the June 1 through August 31 period. NMFS anticipates that commercial-size BFT will be readily available to vessels fishing under the General category quota. If the catch rates of approximately 6 mt per day under the two-fish daily limit established in the August 7 **Federal Register** document were to continue when the fishery reopens on September 1, the available subquotas for the September, October through November, and December could be reached or exceeded quickly, and NMFS would need to close the fishery earlier than otherwise would be necessary under a lower limit. Thus, while NMFS anticipates that commercial-size bluefin tuna will be readily available to vessels fishing

under the General category quota when the fishery reopens, current catch rates indicate a reduction from two fish to one fish is warranted.

Another relevant criterion is the effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota (§ 635.27(a)(8)(viii)). NMFS anticipates that 108.38 mt of underharvest of the 2016 adjusted U.S. BFT quota will be carried forward to 2017 to the Reserve category, in accordance with the regulations, in the coming weeks. This increases the likelihood that General category quota will remain available through the end of 2017, provided retention limits are managed accordingly. Last fall, General category landings were relatively high due to a combination of fish availability, favorable fishing conditions, and higher daily retention limits (five fish per day for June 1 through October 8, four fish effective October 9 through October 16, and two fish effective October 17 through November 3). Given these conditions, NMFS transferred 125 mt from the Reserve category (81 FR 70369, October 12, 2016) and later transferred another 85 mt (18 mt from the Harpoon category and 67 mt from the Reserve category) (81 FR 71639, October 18, 2016). Nevertheless, NMFS had to close the 2016 General category fishery effective November 4 to prevent further overharvest of the adjusted General category quota. For 2017, NMFS again intends to provide General category participants in all areas and time periods opportunities to harvest the General category quota without exceeding it, through active inseason management such as retention limit adjustments and/or the timing and amount of quota transfers (based on consideration of the determination criteria regarding inseason adjustments), while extending the season as long as practicable.

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by BFT dealers continue to provide NMFS with valuable data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Prolonged opportunities to land BFT over the longest time-period allowable would support the collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the effects of the adjustment on BFT rebuilding and overfishing and the effects of the adjustment on accomplishing the objectives of the FMP (§ 635.27(a)(8)(v) and (vi)). The adjusted retention limit would be consistent with the quotas established and analyzed in the BFT quota final rule (80 FR 52198, August 28, 2015), and with objectives of the 2006 Consolidated HMS FMP and amendments, and is not expected to negatively impact stock health or to affect the stock in ways not already analyzed in those documents. It is also important that NMFS limit landings to the subquotas both to adhere to the FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (*e.g.,* fish caught at each age) that was assumed in the projections of stock rebuilding.

Another principal consideration in setting the retention limit is the objective of providing opportunities to harvest the full General category quota without exceeding it based on the goals of the 2006 Consolidated HMS FMP and amendments, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest their full BFT quota allocations (related to § 635.27(a)(8)(x)).

Based on these considerations, NMFS has determined that a one-fish General category retention limit is warranted for the remainder of the year. It would provide a reasonable opportunity to harvest the U.S. quota of BFT without exceeding it, while maintaining an equitable distribution of fishing opportunities, help optimize the ability of the General category to harvest its available quota, allow collection of a broad range of data for stock monitoring purposes, and be consistent with the objectives of the 2006 Consolidated HMS FMP and amendments. Therefore, NMFS adjusts the General category retention limit from two to one large medium or giant BFT per vessel per day/trip, effective when the General category fishery reopens on September 1, 2017, through December 31, 2017. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas.

Regardless of the duration of a fishing trip, no more than a single day's retention limit may be possessed, retained, or landed. For example (and specific to the limit that will apply beginning September 1, 2017), whether a vessel fishing under the General category limit takes a two-day trip or makes two trips in one day, the daily limit of one fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeting fishing for BFT, and applies to those vessels permitted in the General category, as well as to those HMS Charter/Headboat permitted vessels fishing commercially for BFT.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. General and HMS Charter/Headboat category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov* or by using the HMS Catch Reporting App. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

Prior notice and an opportunity for public comment is impracticable because the regulations implementing the 2006 Consolidated HMS FMP, as amended, intended that inseason retention limit adjustments would allow the agency to respond quickly to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Based on available BFT quotas, fishery performance in recent years, and the availability of BFT on the fishing grounds, adjustment to the General category BFT daily retention limit from the default level is warranted.

Delays in adjusting the retention limit may result in the available quota being reached or exceeded and NMFS needing to close the fishery earlier than otherwise would be necessary under a lower limit. Such delays could adversely affect those General and HMS Charter/Headboat category vessels that would otherwise have an opportunity to harvest BFT if the fishery were to remain open for as long as feasible throughout the remaining subquota

periods. Limited opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen that depend upon catching the available quota within the time periods designated in the 2006 Consolidated HMS FMP, as amended. Adjustment of the retention limit needs to be effective September 1, 2017, to extend fishing opportunities for fishermen in all geographic areas, consistent with objectives of the 2006 Consolidated HMS FMP and provide equitable opportunities.

Prior notice and an opportunity for public comment is also impracticable for the retention limit adjustment to one fish for the September and subsequent subquota periods. By adopting the one-fish limit for the remainder of the year through this action, NMFS avoids confusion that would arise for the regulated community from two inseason actions adopting the same limit. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For these reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.23(a)(4), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 28, 2017.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18493 Filed 8–28–17; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF656

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian district (CAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2017 total allowable catch (TAC) of Pacific ocean perch in the CAI allocated to vessels participating in the BSAI trawl limited access fishery.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 28, 2017, through 2400 hrs, A.l.t., December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2017 TAC of Pacific ocean perch, in the CAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 619 metric tons by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the CAI by vessels participating in the BSAI trawl limited access fishery.

After the effective dates of this closure, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Pacific ocean perch directed fishery in the CAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a document providing time for public comment because the most recent, relevant data only became available as of August 25, 2017. The Acting AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 28, 2017.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18496 Filed 8–28–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 168
Thursday, August 31, 2017

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 11

[Docket No. RM16–19–000]

Annual Charges for Use of Government Lands in Alaska

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Power Act requires hydropower licensees to recompense the United States for the use, occupancy, and enjoyment of federal lands. The Commission assesses annual charges for the use of federal lands through Part 11 of its regulations. The Commission proposes to revise the per-acre land value component of its methodology for calculating these annual charges for hydropower projects located in Alaska. Under the proposed rule, the Commission would calculate a statewide average per-acre land value for hydropower lands in Alaska. The Commission would use the statewide average per-acre land value, rather than a regional per-acre land value, to calculate annual charges for use of federal lands for all hydropower projects in Alaska, except those located in the Aleutian Islands Area.

DATES: Comments are due October 30, 2017.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures section of this document

FOR FURTHER INFORMATION CONTACT:

Tara DiJohn (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8671, *tara.dijohn@ferc.gov.*

Norman Richardson (Technical Information), Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6219, *norman.richardson@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

	Paragraph Nos.
I. Background	2.
A. Order No. 774	4.
1. Per-Acre Land Value	6.
2. Per-Acre Land Values for Alaska	8.
B. Fiscal Year 2016 Fee Schedule	10.
C. Petition for Rulemaking	11.
II. Notice of Inquiry	14.
III. Proposed Rule	24.
IV. Regulatory Requirements	30.
A. Information Collection Statement	30.
B. Environmental Analysis	31.
C. Regulatory Flexibility Act	32.
D. Comment Procedures	38.
E. Document Availability	42.

1. The Federal Power Act (FPA) requires hydropower licensees that use federal lands to compensate the United States for the use, occupancy, and enjoyment of federal lands.[1] Currently, the Commission uses a fee schedule, based on the U.S. Bureau of Land Management's (BLM) methodology for calculating rental rates for linear rights of way, to calculate annual charges for use of federal lands. The Commission's fee schedule identifies a fee for each county or geographic area, which is the product of four components: A per-acre land value, an encumbrance factor, a rate of return, and an annual adjustment factor. The per-acre land value for a particular county or geographic area (*i.e.,* a regional per-acre land value) is determined using the average per-acre land value identified by the National Agricultural Statistics Service (NASS) Census. Under the proposed rule, the Commission would use a statewide average per-acre land value for the state of Alaska, rather than a regional per-acre land value.

[1] 16 U.S.C. 803(e)(1) (2012).

I. Background

2. Section 10(e)(1) of the FPA requires Commission hydropower licensees using federal lands to pay reasonable annual charges, as determined by the Commission, to recompense the United States for the use and occupancy of its lands.[2] While the Commission may periodically adjust these charges, it must seek to avoid increasing the price

[2] 16 U.S.C. 803(e)(1) (2012). Section 10(e)(1) also requires licensees to reimburse the United States for the costs of administering Part I of the FPA. Those charges are calculated and billed separately from the land use charges, and are not the subject of this proposed rule.

to power consumers by such charges.[3] In other words, licensees that use and occupy federal lands for project purposes must compensate the United States through payment of an annual fee, to be established by the Commission.[4]

3. The Commission has adopted various methods over the years to accomplish this statutory directive.[5] Currently, the Commission uses a fee schedule method, based on land values published in the NASS Census, to calculate annual charges for use of government lands. The Commission adopted this approach in a final rule issued on January 12, 2013.[6]

A. Order No. 774

4. In Order No. 774, the Commission adopted a fee schedule method for calculating annual charges for use of government lands, based on BLM's methodology for calculating rental rates for linear rights of way. Pursuant to section 11.2 of the Commission's regulations, the Commission publishes an annual fee schedule which lists per-acre rental fees by county or geographic area.[7] To calculate a licensee's annual charge for use of government lands, the Commission multiplies the applicable county or geographic area per-acre fee identified in the fee schedule by the number of federal acres used by the hydroelectric project, as reported by that licensee.

5. The per-acre rental fee for a particular county or geographic area is calculated by multiplying four components: (1) A per-acre land value; (2) an encumbrance factor; (3) a rate of return; and (4) an annual adjustment factor.

1. Per-Acre Land Value

6. The first component—the per-acre land value—is based on average per-acre land values published in the NASS Census. Specifically, the per-acre land value is determined by the applicable county or geographic area ''land and buildings'' category[8] from the NASS Census. This NASS-published per-acre value is then reduced by the sum of a state-specific modifier (to remove the value of irrigated lands) and seven percent (to remove the value of buildings or other improvements). The end result is the adjusted per-acre land value.

7. The NASS Census is conducted every five years, with an 18-month delay before NASS publishes the census data. The Commission incorporates another 18-month delay to account for revisions, consistent with BLM's implementation of its 2008 rule. Therefore, the Commission based the 2011–2015 fee schedules on data from the 2007 NASS Census. The Commission's 2016–2020 fee schedules will be based on data from the 2012 NASS Census; the 2021–2025 fee schedules will be based on data from the 2017 NASS Census; the 2026–2030 fee schedules will be based on data from the 2022 NASS Census; and so on. State-specific adjustments to the per-acre land value are performed in the first year that data from a new NASS Census are used, and will remain the same until the subsequent NASS Census data are used to calculate the forthcoming set of fee schedules.

2. Per-Acre Land Values for Alaska

8. With regard to Alaska, Order No. 774 explained that the final rule would adopt BLM's approach to per-acre land values by designating lands in Alaska as part of one of the five NASS Census geographic area identifiers: The Aleutian Islands Area, the Anchorage Area, the Fairbanks Area, the Juneau Area, and the Kenai Peninsula Area. Several commenters asserted that a per-acre statewide value, a category also reported by the NASS Census, should be used to establish assessments for federal land in Alaska.[9]

9. Order No. 774 considered the arguments raised in support of a statewide per-acre value. In particular, several commenters asserted that it is inappropriate to use regional per-acre values for Alaska because Alaska does not use county designations; the number of farms surveyed for the NASS Census in the entire state of Alaska is less than the number of farms surveyed in most counties in the lower-48 states; and, certain per-acre land values near Anchorage and Juneau are very high, resulting in a substantial increase in annual charges for the use of government lands by hydropower licensees in these areas. However, the Commission ultimately concluded that the commenters had not advanced a sufficient explanation for why it was more appropriate to use a statewide per-acre value for Alaska, rather than the smallest NASS Census defined area for Alaska—the geographic area identifier. Although the Commission rejected the use of a statewide per-acre land value for Alaska in Order No. 774, the Commission clarified that it would not use rates based on the Anchorage Area and the Juneau Area values to assess annual land use charges ''because these high, urban-based rates would not reasonably reflect the value of government lands on which hydropower projects are located.''[10] Instead, for purposes of determining a per-acre land value, the Commission decided to use the Kenai Peninsula Area per-acre land value for projects located in the Anchorage Area or the Juneau Area.

B. Fiscal Year 2016 Fee Schedule

10. The Commission used the 2012 NASS Census data to calculate its fee schedule for the first time in Fiscal Year (FY) 2016. Due to per-acre land value increases in the 2012 NASS Census data, hydropower projects located in certain geographic areas in Alaska experienced a significant increase in federal land use charges when compared to the rates assessed in FY 2015.[11]

C. Petition for Rulemaking

11. On June 6, 2016, the Alaska Federal Land Fees Group, comprising six hydroelectric licensees with projects in Alaska (Alaska Group),[12] petitioned the Commission to conduct a rulemaking to revise its method of calculating federal land use charges for hydropower projects in Alaska. The Alaska Group's petition focuses solely on the first component of the Commission's fee schedule—the per-acre land value—and requests that the Commission: (1) Calculate an adjusted statewide average per-acre land value for Alaska and (2) apply this adjusted

[3] *Id.*

[4] Pursuant to FPA section 17(a), 16 U.S.C. 810(a) (2012), the fees collected for use of government lands are allocated as follows: 12.5 percent is paid into the Treasury of the United States, 50 percent is paid into the federal reclamation fund, and 37.5 percent is paid into the treasuries of the states in which particular projects are located. No part of the fees discussed in this proposed rule is used to fund the Commission's operations.

[5] *See Annual Charges for Use of Government Lands,* Order No. 774, FERC Stats. & Regs. ¶ 31,341, at PP 3–20 (2013) (cross-referenced at 142 FERC ¶ 61,045) (examining the myriad methodologies the Commission has used or considered for assessing annual charges for the use of government lands since 1937) (Order No. 774).

[6] *See generally,* Order No. 774.

[7] 18 CFR 11.2 (2017). The fee schedule is published annually as part of Appendix A to Part 11 of the Commission's regulations.

[8] The ''land and buildings'' is a combination of all land use categories in the NASS Census, including croplands (irrigated and non-irrigated), pastureland/rangeland, woodland, and ''other'' (roads, ponds, wasteland, and land encumbered by non-commercial/non-residential buildings).

[9] Order No. 774 at P 44.

[10] *Id.* at P 45.

[11] In the 2012 NASS Census, changes in land values in other parts of the country varied widely: Some rose significantly, some rose by relatively small amounts, and some decreased.

[12] Alaska Electric Light and Power, Bradley Lake Project Management Committee (on behalf of licensee Alaska Energy Authority), Chugach Electric Association, the Ketchikan Public Utilities, Copper Valley Electric Association, and Southeast Alaska Power Agency.

statewide average per-acre fee to all projects in Alaska, except those located in the Aleutian Islands area.[13]

12. In support of this proposal, the Alaska Group states that due to the small number of farms (and associated acreage) that contribute to the data compiled in the NASS Census, there is insufficient data in any individual Alaska area (with the exception of the Aleutian Islands)[14] to produce a fair estimate of land values within that area. Because there are so few farms outside of the Aleutian Islands area, the Alaska Group indicates that the per-acre land values in the other four geographic areas of Alaska are extremely sensitive to any changes in the voluntary, self-reported farm data compiled by the NASS Census.

13. For these reasons, the Alaska Group asserts that an adjusted statewide average per-acre land value would better reflect the diverse topography of the state and insulate against land value fluctuations caused by individual changes in farm data. The Alaska Group believes that this method would produce a more accurate estimate of the fair market value of federal lands in Alaska.

II. Notice of Inquiry

14. On November 17, 2016, the Commission issued a Notice of Inquiry soliciting input on a narrow question related to its current methodology for calculating annual charges for the use of government lands—whether regional per-acre land values based on data published in the NASS Census ''land and buildings'' category result in reasonably accurate land valuations for projects that occupy federal lands in Alaska. In response to the proposal advanced by the Alaska Group's petition for rulemaking, the Notice of Inquiry requested comments on several specific questions. First, the Commission asked whether it should use a statewide average per-acre land value rather than a regional per-acre land value to calculate the adjusted per-acre land value for projects that occupy federal lands in Alaska. Second, if a statewide average per-acre value is preferred, the Commission sought input on whether the statewide value should be applied to (i) all projects in Alaska, or (ii) all projects in Alaska except those located in the Aleutian Islands Area. Finally, the Commission requested commenters to identify which of the five geographic regions of Alaska it should use to calculate the statewide average per-acre land value.

15. In addition, the Notice of Inquiry encouraged commenters to submit alternative proposals for determining a reasonably accurate per-acre land value for projects in Alaska, provided that the proposed calculation was based on data published in the NASS Census. The notice also invited federal land management agencies to comment on how they would view reductions in annual charges for the lands they administer.

16. The Notice of Inquiry identified five requirements that any proposed methodology should satisfy, derived from the Commission's statutory obligations under the FPA[15] and the Commission's past experience in implementing various methodologies. Any proposed methodology must: (1) Apply uniformly to all licensees in Alaska; (2) avoid exorbitant administrative costs; (3) not be subject to review on an individual basis; (4) reflect reasonably accurate land valuations; and (5) avoid an unreasonable increase in costs to consumers.

17. In response to the Notice of Inquiry, seven entities filed comments: The Alaska Group; U.S. Senator Lisa Murkowski; Homer Electric Association, Inc. (Homer Electric); Kodiak Electric Association, Inc. (Kodiak Electric); the U.S. Forest Service (Forest Service); Erin Noakes; and Chelsea Liddell.

18. The Alaska Group filed comments reiterating its position that the Commission should adopt a statewide average per-acre land value for all hydropower projects in Alaska, and that the statewide average should be applied to all projects in Alaska, except those located in the Aleutian Islands Area. The Alaska Group states that it does not believe that the Commission needs to change its methodology for calculating annual charges for the Aleutian Islands Area since the substantial amount of agricultural acreage represented in the NASS Census data results in a fair estimate of land values for this particular region.

19. In support of its position, the Alaska Group states that the use of a statewide average per-acre land value would provide ''a more robust and representative assessment of fair market value of federal lands in [the Kenai and Fairbanks] areas of Alaska, because it draws on a larger and more diverse dataset from across the state, and ensures that rates are less prone to fluctuation over time.''[16] According to the Alaska Group, if the Commission were to adopt a statewide average per-acre land value for Alaska, it would recognize several unique burdens faced by Alaska hydropower licensees and ratepayers, including the exclusive responsibility borne by Alaska ratepayers for all costs associated with hydropower projects, including annual charge assessments and the predominance of federal acreage in Alaska.

20. Senator Murkowski urges the Commission to use a statewide average per-acre land value, stating that the NASS Census data does not provide an accurate accounting of land values in Alaska because the state has fewer farms and farm acreage than any other state in the Pacific Northwest. Homer Electric, an electric distribution cooperative that provides service in the Kenai Peninsula, agrees with Senator Murkowski's comments that the NASS Census data does not provide an accurate accounting of Alaskan land values. Homer Electric also urges the Commission to adopt a statewide average per-acre land value for Alaska.

21. Kodiak Electric, a licensee of a hydropower project located in the Aleutian Islands Area, states that the regional per-acre land values published in the NASS Census result in reasonably accurate land valuations for hydropower lands in the Aleutian Islands Area. Because of the large number of agricultural acreage reported by the NASS Census for the Aleutian Islands Area, Kodiak Electric believes no changes to the Commission's current methodology are needed for this geographic region. If the Commission decides to adopt a statewide average per-acre land value for hydropower projects in Alaska, Kodiak Electric recommends that the Commission refrain from applying the statewide value to projects located in the Aleutian Islands Area.

22. The Forest Service observes that from an economic perspective the use of a statewide average per-acre land value for Alaska, derived from data published in the NASS Census, would result in a significant reduction in rental rates for the land in question. However, the Forest Service states that it does not recommend the use of a fee schedule

[13] The Alaska Group requests that any project located in the Aleutian Islands Area continue to be assessed annual charges for use of government lands based on a regional per-acre land value.

[14] The Alaska Group contends that because the Aleutian Islands Area contains the greatest amount of farmland in the state (668,016 acres), the NASS Census data for the Aleutian Islands Area is ''robust, reliable, and an accurate estimate of fair market value.'' Alaska Group's June 6, 2016 Petition for Rulemaking at 18. Therefore, the Alaska Group requests that the proposed statewide average per-acre land value be applied to all hydropower projects located in Alaska, except those projects located in the Aleutian Islands Area.

[15] *See* 16 U.S.C. 803(e)(1) (2012).

[16] The Alaska Group's January 24, 2017 Comments on Notice of Inquiry at 16–17.

based on NASS Census data for Alaska because of the small number of farms in the state. Instead, the Forest Service recommends that the Commission calculate federal land charges for Alaska using BLM's ''Minimum Rent Schedule for BLM Land Use Authorizations in Alaska 2015.'' The Forest Service also suggests that the Commission consider a fee based on power generated, similar to BLM's solar fee schedule.

23. Erin Noakes and Chelsea Liddell each filed individual comments recommending that the Commission decline the request to alter its current methodology for calculating federal land charges for hydropower projects in Alaska. Ms. Noakes observes that the use of a statewide average per-acre land value may result in the under-collection of reasonable annual charges for the use of federal lands by hydropower projects in Alaska. Ms. Liddell asserts that the Alaska Group has not sufficiently demonstrated that a statewide average per-acre land value would be any more accurate than a regional per-acre land value.

III. Proposed Rule

24. The Commission proposes to adopt the use of a statewide average per-acre land value, rather than a regional per-acre land value, for the purposes of calculating annual charges for hydropower projects that occupy federal lands in Alaska.

25. To calculate the statewide average per-acre land value for Alaska, the Commission will average the data published in the ''lands and buildings'' category of the NASS Census for two geographic areas: the Kenai Peninsula Area and the Fairbanks Area.[17] Pursuant to the Commission's current methodology, this statewide average will be reduced by Alaska's state-specific reduction to remove the value of irrigated lands, as well as a seven percent reduction to remove the value of buildings. The Commission will apply the resulting adjusted statewide average per-acre land value to all hydropower projects in Alaska except for projects located in the Aleutian Islands Area. Because of the large amount of farmland acreage represented in the NASS Census for the Aleutian Islands Area, the Commission is satisfied that the NASS Census data for this geographic area results in reasonably accurate per-acre land values. Therefore, the Commission will continue to apply the regional per-acre land value for the Aleutian Islands Area.

26. We believe this proposal responds to the issues identified by the petitioners—the prevalence of federal lands in Alaska, the sparse amount of agricultural acreage reflected in the NASS Census, and the increase in annual charges that resulted when the Commission began using data from the 2012 NASS Census. Combining the value of the farmland acreage in the Kenai Peninsula and Fairbanks Areas to calculate a statewide average land value will result in a larger, more robust data set. A larger data set will be less prone to future fluctuation due to changes in the level of participation in NASS Census data reporting or specific anomalies in the data reported. We are satisfied that a statewide average per-acre land value based on the NASS Census data from the ''land and buildings'' category for the Kenai Peninsula and Fairbanks Areas will result in reasonably accurate land values for hydropower projects that occupy federal lands in Alaska.

27. While the Commission is proposing to implement a statewide average per-acre land value to address these concerns, we are not persuaded that the Aleutian Islands Area values, which are lower than land values elsewhere in the state, should be used in calculating a statewide average that is applied to hydropower projects located outside of the Aleutian Islands Area.

28. The Forest Service recommends that the Commission employ a method based on the 2015 Minimum Rent Schedule for BLM Land Use Authorizations in Alaska.[18] Following an analysis of this alternative, Commission staff concluded that the use of BLM's Minimum Rent Schedule would result in higher per-acre fees compared to the Commission's current methodology. BLM's Minimum Rent Schedule for Alaska uses land values based on rural sales data. The underlying land values for the Kenai Peninsula, Fairbanks, and Aleutian Islands Areas are all higher than the corresponding land values published in the NASS Census. The Commission does not believe that there is sufficient justification for using—only for Alaska—BLM's Minimum Rent Schedule, instead of continuing to use NASS Census data to establish federal land use charges for all areas of the country.

29. In addition, the Forest Service suggests that the Commission consider a fee based on power generated, similar to the solar fee schedule. For solar energy right-of-way authorizations, BLM charges a combined rent and fee consisting of an acreage rent paid annually regardless of the stage of development, and a megawatt capacity fee paid annually once electricity generation begins.[19] BLM uses per-acre data from the ''land and buildings'' category of the NASS Census as a baseline for determining the acreage rent.[20] Since this method is based on the same regional NASS Census data that the Alaska Group questions, and includes a megawatt capacity fee in addition to the acreage rent,[21] it does not address the Alaska Group's suggestion that a larger, more robust data set is needed to balance the paucity of regional agricultural acreage for Alaska reflected in the NASS Census. In addition, the acreage rent is determined using a fee schedule that is divided into geographic zones, a practice that the Commission previously rejected.[22] For these reasons, the Commission will not consider this alternative further.

IV. Regulatory Requirements

A. Information Collection Statement

30. The Paperwork Reduction Act[23] requires each federal agency to seek and

[17] As we noted earlier, the Commission does not use the NASS Census data from the Anchorage Area or the Juneau Area for the purpose of determining per-acre land values because the predominantly high, urban-based rates do not reasonably reflect the value of government lands on which hydropower projects are located. *See supra* P 9.

[18] *See generally* BLM, *Rent for Remote Non-Linear Rights-of-Way, Permits and Leases, https://www.blm.gov/policy/im-ak-2015-010* (instruction memorandum describing the U.S. Department of the Interior—Office of Valuation Services' April 2015 Minimum Rent Analysis & Schedule, which provides guidance and a rental schedule for land use authorizations of up to 25 acres across each of BLM's district and field offices in Alaska).

[19] *See Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections,* 81 FR 92,122, 92,217–18 (December 19, 2016) (to be codified at 43 CFR pts. 2800 and 2880).

[20] The acreage rent is calculated by multiplying the number of acres included in the right-of-way authorization by a per-acre zone rate from the solar energy acreage rent schedule. To determine the per-acre zone rate, BLM calculates a state-specific factor, applies the state-specific factor to NASS-published data, and uses the resulting per-acre value to assign a particular county or geographic area to the appropriate rent schedule zone.

[21] The Commission previously rejected, as unreasonable, methods based on power sale revenues or a rate per kilowatt hour because such fees would result in a royalty as if the occupied federal lands themselves were producing power. Such criticism could also be levied against a megawatt capacity fee. *See Annual Charges for the Use of Government Lands,* FERC Stats. & Regs ¶ 32,684; 137 FERC ¶ 61,139, at P 9 (2011) (citing *Revision of the Billing Procedures for Annual Charges for Administering Part I of the Federal Power Act and to the Methodology for Assessing Federal Land Use Charges,* Order No. 469, FERC Stats. & Regs., Regulations Preambles ¶ 30,741, at 30,589–90 (1987)).

[22] *See* Order No. 774 at PP 23–24 (. . . ''the Commission agreed with commenters that BLM's 'zone system' inflates the values of all counties in a zone except the highest valued county.'').

[23] 44 U.S.C. 3501–3521 (2012).

obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability. OMB regulations require approval of certain information collection requirements contemplated by proposed rules.[24] This proposed rule does not impose or alter existing reporting or recordkeeping requirements on applicable entities as defined by the Paperwork Reduction Act.[25] As a result, this proposed rule does not trigger the Paperwork Reduction Act.

B. Environmental Analysis

31. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant effect on the human environment.[26] Commission actions concerning annual charges are categorically exempt from this requirement.[27]

C. Regulatory Flexibility Act

32. The Regulatory Flexibility Act of 1980 (RFA)[28] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and minimize any significant economic impact on a substantial number of small entities.[29]

33. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[30] The SBA revised its size standard for electric utilities (effective January 22, 2014) from a standard based on megawatt hours to a standard based on the number of employees, including affiliates.[31] Under SBA's current size standards, a hydroelectric generator is small if, including its affiliates, it employs 500 or fewer people.[32]

34. Section 10(e)(1) of the FPA requires that the Commission fix a reasonable annual charge for the use, occupancy, and enjoyment of federal lands by hydropower licensees. To date, the Commission has issued 21 active licenses that occupy federal lands in Alaska to 15 discrete entities. Therefore, the proposed rule will apply to a total of 15 entities. Of these 15 entities, 13 entities would be impacted by the proposed rule because they hold licenses that occupy federal lands in the Kenai Peninsula, Fairbanks, Juneau, or Anchorage Areas. The proposed rule adopts the use of a statewide average per-acre land value, rather than a regional per-acre land value, for the purpose of calculating annual charges for the use of federal lands in Alaska. The Commission will apply the statewide average per-acre land value to all hydropower projects in Alaska, except for projects located in the Aleutian Islands Area. The Commission will continue to apply the regional per-acre land value for the Aleutian Islands Area.

35. Based on a review of the 13 licensees that would be impacted by the proposed rule, we estimate that most, if not all, are small entities under the SBA definition. These 13 licensees include utilities, non-for-profit electric cooperatives, cities, and companies.

36. Any impact on these small entities would not be significant. Under the proposed rule, a statewide average per-acre land value for hydropower lands in Alaska would be calculated based on a larger agricultural data set, resulting in land values that will be less prone to future fluctuation caused by changes in census data reporting. For Fiscal Year (FY) 2017, the use of a statewide average per-acre land value would result in a lower per-acre fee than that assessed in FY 2016. Accordingly, the 13 affected licensees would pay lower annual charge assessments for use of federal lands in FY 2017 than they did the previous fiscal year. Furthermore, six of the 13 affected licensees are members of the Alaska Group, which petitioned the Commission to revise its methodology for calculating annual charges for use of federal lands by establishing a statewide average per-acre land value for Alaska. Consequently, the proposed rule should not impose a significant economic impact on small entities.

37. Accordingly, pursuant to section 605(b) of the RFA, the Commission certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

D. Comment Procedures

38. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due October 30, 2017. Comments must refer to Docket No. RM16–19–000, and must include the commenter's name, the organization they represent, if applicable, and their address.

39. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

40. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

41. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

E. Document Availability

42. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

43. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

44. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

[24] *See* 5 CFR 1320.11 (2017).

[25] 44 U.S.C. 3502(2)–(3) (2012).

[26] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[27] 18 CFR 380.4 (a)(11) (2017).

[28] 5 U.S.C. 601–612.

[29] 5 U.S.C. 603(c) (2012).

[30] 13 CFR 121.101 (2017).

[31] SBA Final Rule on ''Small Business Size Standards: Utilities,'' 78 FR 77,343 (Dec. 23, 2013).

[32] 13 CFR 121.201, Sector 22, Utilities (2017).

List of Subjects in 18 CFR Part 11

Dams, Electric power, Indians-lands, Public lands, Reporting and recordkeeping requirements.

By direction of the Commission.

Issued: August 17, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Federal Energy Regulatory Commission proposes to amend Part 11, Chapter I, Title 18, *Code of Federal Regulations,* as follows:

PART 11—ANNUAL CHARGES UNDER PART I OF THE FEDERAL POWER ACT

■ 1. The authority citation for part 11 continues to read as follows:

Authority: 16 U.S.C. 792–828c; 42 U.S.C. 7101–7352.

■ 2. In § 11.2, add paragraph (c)(1)(iv) to read as follows:

* * * * *

(c) * * *

(1) * * *

(iv) For all geographic areas in Alaska except for the Aleutian Islands Area, the Commission will calculate a statewide average per-acre land value based on the average per-acre land and building values published in the NASS Census for the Kenai Peninsula and the Fairbanks Areas. This statewide average per-acre value will be reduced by the sum of the state-specific modifier and seven percent. The resulting adjusted statewide average per-acre value will be applied to all projects located in Alaska, except for those projects located in the Aleutian Island Area.

* * * * *

[FR Doc. 2017–17846 Filed 8–30–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 117

[Docket No. FDA–2016–D–2343]

Hazard Analysis and Risk-Based Preventive Controls for Human Food: Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA, we, or Agency) is announcing the availability of another draft chapter of a multichapter guidance for industry entitled ''Hazard Analysis and Risk-Based Preventive Controls for Human Food: Guidance for Industry.'' This multichapter draft guidance is intended to explain our current thinking on how to comply with the requirements for hazard analysis and risk-based preventive controls under our rule entitled ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food.'' The newly available draft chapter is entitled ''Chapter Six—Use of Heat Treatments as a Process Control.''

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that we consider your comment on this draft guidance before we issue the final version of the guidance, submit either electronic or written comments by February 27, 2018.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2016–D–2343 for ''Hazard Analysis and Risk-Based Preventive Controls for Human Food: Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to Office of Food Safety, Center for Food Safety and Applied Nutrition, Food and Drug Administration (HFS–300), 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels

to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Jenny Scott, Center for Food Safety and Applied Nutrition (HFS–300), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2166.

SUPPLEMENTARY INFORMATION:

I. Background

The FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353) enables FDA to better protect public health by helping to ensure the safety and security of the food supply. It enables FDA to focus more on preventing food safety problems rather than relying primarily on reacting to problems after they occur. FSMA recognizes the important role industry plays in ensuring the safety of the food supply, including the adoption of modern systems of preventive controls in food production.

Section 103 of FSMA amended the Federal Food, Drug, and Cosmetic Act (FD&C Act), in section 418 of the FD&C Act (21 U.S.C. 350g), by adding requirements for hazard analysis and risk-based preventive controls for establishments that are required to register as food facilities under our regulations, in 21 CFR part 1, subpart H, in accordance with section 415 of the FD&C Act (21 U.S.C. 350d). We have established regulations to implement these requirements within part 117 (21 CFR part 117).

In the **Federal Register** of August 24, 2016 (81 FR 57816), we announced the availability of several chapters of a multichapter draft guidance for industry entitled ''Hazard Analysis and Risk-Based Preventive Controls for Human Food.'' We now are announcing the availability of an additional draft chapter of this multichapter guidance for industry. We are issuing the draft guidance consistent with our good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternate approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

The multichapter draft guidance for industry is intended to explain our current thinking on how to comply with the requirements for hazard analysis and risk-based preventive controls under part 117, principally in subparts C and G. The chapter that we are announcing in this document is entitled ''Chapter Six—Use of Heat Treatments as a Process Control.''

We intend to announce the availability for public comment of additional chapters of the draft guidance as we complete them.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 117 have been approved under OMB control number 0910–0751.

III. Electronic Access

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

Dated: August 22, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18464 Filed 8–30–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

[Application Number D–11712; D–11713; D–11850]

ZRIN 1210–ZA27

Extension of Transition Period and Delay of Applicability Dates; Best Interest Contract Exemption (PTE 2016–01); Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (PTE 2016–02); Prohibited Transaction Exemption 84–24 for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies, and Investment Company Principal Underwriters (PTE 84–24)

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed amendments to PTE 2016–01, PTE 2016–02, and PTE 84–24.

SUMMARY: This document proposes to extend the special transition period under sections II and IX of the Best Interest Contract Exemption and section VII of the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs. This document also proposes to delay the applicability of certain amendments to Prohibited Transaction Exemption 84–24 for the same period. The primary purpose of the proposed amendments is to give the Department of Labor the time necessary to consider possible changes and alternatives to these exemptions. The Department is particularly concerned that, without a delay in the applicability dates, regulated parties may incur undue expense to comply with conditions or requirements that it ultimately determines to revise or repeal. The present transition period is from June 9, 2017, to January 1, 2018. The new transition period would end on July 1, 2019. The proposed amendments to these exemptions would affect participants and beneficiaries of plans, IRA owners and fiduciaries with respect to such plans and IRAs.

DATES: Comments must be submitted on or before September 15, 2017.

ADDRESSES: All written comments should be sent to the Office of Exemption Determinations by any of the following methods, identified by RIN 1210–AB82:

Federal eRulemaking Portal: http://www.regulations.gov at Docket ID number: EBSA–2017–0004. Follow the instructions for submitting comments.

Email to: EBSA.FiduciaryRuleExamination@dol.gov.

Mail: Office of Exemption Determinations, EBSA, (Attention: D–11712, 11713, 11850), U.S. Department of Labor, 200 Constitution Avenue NW., Suite 400, Washington, DC 20210.

Hand Delivery/Courier: OED, EBSA (Attention: D–11712, 11713, 11850), U.S. Department of Labor, 122 C St. NW., Suite 400, Washington, DC 20001.

Comments will be available for public inspection in the Public Disclosure Room, EBSA, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue NW., Washington, DC 20210. Comments will also be available online at *www.regulations.gov,* at Docket ID number: EBSA–2017–0004 and *www.dol.gov/ebsa,* at no charge. Do not include personally identifiable information or confidential business information that you do not want publicly disclosed. Comments online can be retrieved by most Internet search engines.

FOR FURTHER INFORMATION CONTACT: Brian Shiker, telephone (202) 693–8824, Office of Exemption Determinations, Employee Benefits Security Administration.

SUPPLEMENTARY INFORMATION:

A. Procedural Background

ERISA and the 1975 Regulation

Section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), in relevant part provides that a person is a fiduciary with respect to a plan to the extent he or she renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so. Section 4975(e)(3)(B) of the Internal Revenue Code (''Code'') has a parallel provision that defines a fiduciary of a plan (including an individual retirement account or annuity (IRA)). The Department of Labor (''the Department'') in 1975 issued a regulation establishing a five-part test under this section of ERISA. See 29 CFR 2510.3–21(c)(1) (2015).[1] The Department's 1975 regulation also applied to the definition of fiduciary in the Code.

The New Fiduciary Rule and Related Exemptions

On April 8, 2016, the Department replaced the 1975 regulation with a new regulatory definition (the ''Fiduciary Rule''). The Fiduciary Rule defines who is a ''fiduciary'' of an employee benefit plan under section 3(21)(A)(ii) of ERISA as a result of giving investment advice to a plan or its participants or beneficiaries. The Fiduciary Rule also applies to the definition of a ''fiduciary'' of a plan in the Code. The Fiduciary Rule treats persons who provide investment advice or recommendations for a fee or other compensation with respect to assets of a plan or IRA as fiduciaries in a wider array of advice relationships than was true under the 1975 regulation. On the same date, the Department published two new administrative class exemptions from the prohibited transaction provisions of ERISA (29 U.S.C. 1106) and the Code (26 U.S.C. 4975(c)(1)): The Best Interest Contract Exemption (BIC Exemption) and the Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (Principal Transactions Exemption), as well as amendments to previously granted exemptions (collectively referred to as ''PTEs,'' unless otherwise indicated). The Fiduciary Rule and PTEs had an original applicability date of April 10, 2017.

Presidential Memorandum

By Memorandum dated February 3, 2017, the President directed the Department to prepare an updated analysis of the likely impact of the Fiduciary Rule on access to retirement information and financial advice. The President's Memorandum was published in the **Federal Register** on February 7, 2017, at 82 FR 9675. On March 2, 2017, the Department published a notice of proposed rulemaking that proposed a 60-day delay of the applicability date of the Rule and PTEs. The proposal also sought public comments on the questions raised in the Presidential Memorandum and generally on questions of law and policy concerning the Fiduciary Rule and PTEs.[2] The Department received nearly 200,000 comment and petition letters expressing a wide range of views on the proposed 60-day delay. Approximately 15,000 commenters and petitioners supported a delay of 60 days or longer, with some requesting at least 180 days and some up to 240 days or a year or longer (including an indefinite delay or repeal); 178,000 commenters and petitioners opposed any delay whatsoever at that time.

First Delay of Applicability Dates

On April 7, 2017, the Department promulgated a final rule extending the applicability date of the Fiduciary Rule by 60 days from April 10, 2017, to June 9, 2017 (''April Delay Rule'').[3] It also extended from April 10 to June 9, the applicability dates of the BIC Exemption and Principal Transactions Exemption and required investment advice fiduciaries relying on these exemptions to adhere only to the Impartial Conduct Standards as conditions of those exemptions during a transition period from June 9, 2017, through January 1, 2018. The April Delay Rule also delayed the applicability of amendments to an existing exemption, Prohibited Transaction Exemption 84–24 (PTE 84–24), until January 1, 2018, other than the Impartial Conduct Standards, which became applicable on June 9, 2017. Lastly, the April Delay Rule extended for 60 days, until June 9, 2017, the applicability dates of amendments to other previously granted exemptions. The 60-day delay was considered appropriate by the Department at that time, including for the Impartial Conduct Standards in the BIC Exemption and Principal Transactions Exemption, while compliance with other conditions for transactions covered by these exemptions, such as requirements to make specific disclosures and representations of fiduciary compliance in written communications with investors, was postponed until January 1, 2018, by which time the Department intended to complete the examination and analysis directed by the Presidential Memorandum.

Request for Information

On July 6, 2017, the Department published in the **Federal Register** a Request for Information (RFI). 82 FR 31278. The purpose of the RFI was to augment some of the public commentary and input received in response to the March 2, 2017, request for comments on issues raised in the Presidential Memorandum. In particular, the RFI sought public input that could form the basis of new exemptions or changes to the Rule and PTEs. The RFI also specifically sought input regarding the advisability of extending the January 1, 2018, applicability date of certain provisions in the BIC Exemption, the Principal Transactions Exemption, and PTE 84–24. Comments relating to extension of the January 1, 2018, applicability date of certain provisions were requested by July 21, 2017. All other comments were requested by August 7, 2017. As of July 21, the Department had received approximately 60,000 comment and petition letters expressing a wide range of views on whether the Department should grant an additional delay and what should be the duration of any such delay. These comments are discussed in Section C, below, in connection with the proposed amendments.

B. Current Transition Period

BIC Exemption (PTE 2016–01) and Principal Transactions Exemption (PTE 2016–02)

Although the Fiduciary Rule, BIC Exemption, and Principal Transactions Exemption first became applicable on June 9, 2017, transition relief is provided throughout the current Transition Period, which runs from June 9, 2017, through January 1, 2018. ''Financial Institutions'' and ''Advisers,'' as defined in the exemptions, who wish to rely on these exemptions for covered transactions during this period must adhere to the ''Impartial Conduct Standards'' only. In general, this means that Financial

[1] The 1975 Regulation was published as a final rule at 40 FR 50842 (Oct. 31, 1975).

[2] 82 FR 12319.

[3] 82 FR 16902.

Institutions and Advisers must give prudent advice that is in retirement investors' best interest, charge no more than reasonable compensation, and avoid misleading statements.[4]

The remaining conditions of the BIC Exemption would become applicable on January 1, 2018, absent a further delay of their applicability. This includes the requirement, for transactions involving IRA owners, that the Financial Institution enter into an enforceable written contract with the retirement investor. The contract would include an enforceable promise to adhere to the Impartial Conduct Standards, an express acknowledgement of fiduciary status, and a variety of disclosures related to fees, services, and conflicts of interest. IRA owners, who do not have statutory enforcement rights under ERISA, would be able to enforce their contractual rights under state law. Also, as of January 1, 2018, the exemption requires Financial Institutions to adopt policies and procedures that meet specified conflict-mitigation criteria. In particular, the policies and procedures must be reasonably and prudently designed to ensure that Advisers adhere to the Impartial Conduct Standards and must provide that neither the Financial Institution nor (to the best of its knowledge) its affiliates or related entities will use or rely on quotas, appraisals, performance or personnel actions, bonuses, contests, special awards, differential compensation, or other actions or incentives that are intended or would reasonably be expected to cause advisers to make recommendations that are not in the best interest of the retirement investor.[5] Financial Institutions would also be required at that time to provide disclosures, both to the individual retirement investor on a transaction basis, and on a Web site.

Similarly, while the Principal Transactions Exemption is conditioned solely on adherence to the Impartial Conduct Standards during the current Transition Period, its remaining conditions also will become applicable on January 1, 2018, absent a further delay of their applicability. The Principal Transactions Exemption permits investment advice fiduciaries to sell to or purchase from plans or IRAs investments in ''principal transactions'' and ''riskless principal transactions''—transactions involving the sale from or purchase for the Financial Institution's own inventory. Conditions scheduled to become applicable on January 1, 2018, include a contract requirement and a policies and procedures requirement that mirror the requirements in the BIC Exemption. The Principal Transactions Exemption also includes some conditions that are different from the BIC Exemption, including credit and liquidity standards for debt securities sold to plans and IRAs pursuant to the exemption and additional disclosure requirements.

PTE 84–24

PTE 84–24, which applies to advisory transactions involving insurance and annuity contracts and mutual fund shares, was most recently amended in 2016 in conjunction with the development of the Fiduciary Rule, BIC Exemption, and Principal Transactions Exemption.[6] Among other changes, the amendments included new definitional terms, added the Impartial Conduct Standards as requirements for relief, and revoked relief for transactions involving fixed indexed annuity contracts and variable annuity contracts, effectively requiring those Advisers who receive conflicted compensation for recommending these products to rely upon the BIC Exemption. However, except for the Impartial Conduct Standards, which were applicable beginning June 9, 2017, the remaining amendments are not applicable until January 1, 2018. Thus, because the amendment revoking the availability of PTE 84–24 for fixed indexed annuities is not applicable until January 1, 2018, affected parties (including insurance intermediaries) may rely on PTE 84–24, subject to the existing conditions of the exemption and the Impartial Conduct Standards, for recommendations involving all annuity contracts during the Transition Period.

C. Comments and Proposed Amendments

Question 1 of the RFI specifically asked whether a delay in the January 1, 2018, applicability date of the provisions in the BIC Exemption, Principal Transactions Exemption and amendments to PTE 84–24 would reduce burdens on financial services providers and benefit retirement investors by allowing for more efficient implementation responsive to recent market developments. This question also made inquiry into risks, advantages, and costs and benefits associated with such a delay.

Many commenters supported delaying the January 1, 2018, applicability dates of these PTEs. For example, one commenter stated that there is ''no question that the comprehensive reexamination directed by the President cannot be completed by January 1, 2018, especially where the record is replete with evidence that the result of that review will be required revisions to the Rule and exemptions, all of which take time.''[7] In addition, another commenter stated that it believes ''a thorough and thoughtful re-assessment of the Fiduciary Rule, with appropriate coordination with other regulators, will take months'' and that if the Department does not delay the applicability date during this review period, ''the industry has no choice but to continue preparing for the Fiduciary Rule in a form that may never become effective leading to significant wasted expenses that benefits no one.''[8] Other commenters disagreed, however, asserting that full application of the Fiduciary Rule and PTEs were necessary to protect retirement investors from conflicts of interests and that the applicability dates should not have been delayed from April, 2017, and that the January 1, 2018, date should not be further delayed.[9] At the same time, still others stated their view that the Fiduciary Rule and PTEs should be repealed and replaced, either with the original 1975 regulation or with a substantially revised rule.[10]

[4] In the Principal Transactions Exemption, the Impartial Conduct Standards specifically refer to the fiduciary's obligation to seek to obtain the best execution reasonably available under the circumstances with respect to the transaction, rather than to receive no more than ''reasonable compensation.''

[5] During the Transition Period, the Department expects financial institutions to adopt such policies and procedures as they reasonably conclude are necessary to ensure that advisers comply with the impartial conduct standards. During that period, however, the Department does not require firms and advisers to give their customers a warranty regarding their adoption of specific best interest policies and procedures, nor does it insist that they adhere to all of the specific provisions of Section IV of the BIC Exemption as a condition of compliance. Instead, financial institutions retain flexibility to choose precisely how to safeguard compliance with the impartial conduct standards, whether by tamping down conflicts of interest associated with adviser compensation, increased monitoring and surveillance of investment recommendations, or other approaches or combinations of approaches.

[6] 81 FR 21147 (April 8, 2016).

[7] Comment Letter #109 (Securities Industry and Financial Markets Association).

[8] Comment Letter #181 (Voya Financial).

[9] See, *e.g.,* Comment Letter #273 (National Employment Law Project) (''Because these workers need the protections afforded by the full set of Conditions as soon as possible, NELP strongly opposes further delay of the application of any of the Conditions. NELP also disagrees with the Department's decision to even consider an additional delay in the applicability date of the Conditions.'').

[10] *See, e.g.,* Comment Letter #316 (Aeon Wealth Management) (''The current Fiduciary Rule should not be amended or extended in any way. IT

Continued

Among the commenters supporting a delay, some suggested a fixed length of time and others suggested a more open-ended delay. Of those commenters suggesting a fixed length delay, there was no consensus among them regarding the appropriate length, but the range generally was 1 to 2 years from the current applicability date of January 1, 2018.[11] Those commenters suggesting a more open-ended framework for measuring the length of the delay generally recommended that the applicability date be delayed for at least as long as it takes the Department to finish the reexamination directed by the President. These commenters suggested that the length of the delay should be measured from the date the Department, after finishing the reexamination, either decided that there will be no new amendments or exemptions or the date the Department publishes a new exemption or major revisions to the Fiduciary Rule and PTEs.[12]

Regardless of whether advocating for a fixed or open-ended delay, many commenters focused on the uncertain fate of the PTEs. A significant number of industry commenters, for example, stated that because the Department, as part of its ongoing examination under the Presidential Memorandum, has indicated that it is actively considering changes or alternatives to the BIC Exemption, the January 1, 2018, applicability date should be delayed at least until such changes or alternatives are finalized, with a reasonable period beyond that date for compliance. Otherwise, according to these commenters, costly systems changes to comply with the BIC Exemption by January 1, 2018, must commence or conclude immediately, and these costs could prove unnecessary in whole or in part depending on the eventual regulatory outcome. Industry commenters stated that it is widely expected within the financial industry that there will be certain change(s) to the Rule or to the exemption pursuant to the Presidential Memorandum. Industry commenters also expressed concerns that uncertainty concerning expected changes is likely to lead to consumer confusion and inefficient industry development. Several industry commenters indicated their concern that, without additional delays, compliance efforts may prove to be a waste of time and money.[13]

Many commenters argued that, in spite of the level of uncertainty surrounding the ultimate fate of the Fiduciary Rule and PTEs, the Department will need to at least partially modify the Fiduciary Rule and PTEs. These commenters cite the President's Memorandum dated February 3, 2017, requiring the Department to prepare an updated analysis of the likely impact of the Fiduciary Rule on access to retirement information and financial advice, and predict that this analysis will affirm their view that regulatory changes are necessary to avoid adverse impacts on advice, access, costs, and litigation.

Many commenters argue that a delay in the January 1, 2018, applicability date is needed in order for the Department and Secretary of Labor Acosta to coordinate with the Securities and Exchange Commission (SEC) under the new leadership of Chairman Clayton. These commenters assert that meaningful coordination simply is not possible between now and January 1, 2018, on the many important issues affecting retirement investors raised by the Fiduciary Rule and PTEs, including the potential confusion for investors caused by different rules and regulations applying to different types of investment accounts. One commenter suggested that, absent a delay in the January 1, 2018, applicability date, there will be no genuine opportunity for the Department to coordinate with the SEC under the new leadership regimes. The full Fiduciary Rule would become applicable before the SEC had done its own rulemaking, leaving the SEC no choice except to apply the standards in the Fiduciary Rule to all of those investments subject to SEC jurisdiction, write a different rule, which would exacerbate the current confusion and inconsistencies, or to do nothing, according to one commenter.[14] On June 1, 2017, the Chairman of the SEC issued a statement seeking public comments on the standards of conduct for investment advisers and broker dealers when they provide investment advice to retail investors. One commenter asserted that coordination ''suggests that the Department of Labor should await the SEC's receipt and evaluation of information.'' [15] At least one commenter

SHOULD BE COMPLETELY ELIMINATED! It is the first step towards the government taking control of everyone's personal retirement assets.'').

[11] *See, e.g.,* Comment Letter #25 (National Federation of Independent Business (delay at least until January 1, 2019); Comment Letter #159 (Davis & Harman) (delay until at least September 1, 2019); Comment Letter #183 (Morgan Stanley) (at least 18 months); Comment Letter #196 (American Council of Life Insurers) (one year); Comment Letter #208 (Capital Group) (at least January 1, 2019); Comment Letter #246 (Ameriprise Financial) (supports a two-year delay of the January 1, 2018 compliance date of the Rule); Comment Letter #258 (Wells Fargo) (delay at least 24 months); Comment Letter #290 (Annexus and other entities/Drinker, Biddle&Reath) (delay at least until January 1, 2019); Comment Letter #291 (Farmers Financial Solutions) (delay until April 2019).

[12] *See, e.g.,* Comment Letter #134 (Insured Retirement Institute (delay until January 1, 2020, or the date that is 18 months after the Department takes final action on the Fiduciary Rule); Comment Letter #229 (Investment Company Institute) (one year after finalization of modified rule); Comment Letter #109 (Securities Industry and Financial Markets Association) (a minimum of 24 months after completion of the review and publication of final rules); Comment Letter #266 (Edward D. Jones & Co.) (later of July 1, 2019 or one year after the promulgation of any material amendments); Comment Letter #251 (Teachers Insurance and Annuity Association of America) (at least one year after the Department has promulgated changes to the Rule and PTEs); Comment Letter #196 (Prudential Financial) (at least 12 months with new applicability dates in conjunction with proposed changes); Comment Letter #212 (American Bankers Association) (at least twelve months after the effective date of any changes or revisions); Comment Letter #211 (Transamerica) (meaningful period following promulgation of changes to the Fiduciary Rule); Comment Letter #239 (Great-West Financial) (provide no less than a 12 month notice of existing/newly proposed exemptions; and no less than a 12 month notice following any DOL–SEC standards prior to their effective date); Comment Letter #281 (Bank of New York Mellon) (delay for a reasonable period that will allow Department to complete review, finalize changes, and for firms to implement the processes); Comment Letter #259 (Fidelity Investments) (delay the requirements for 6 months following notice if there are no changes to the rule; if there are changes, sufficient additional time in light of the changes); Comment Letter #248 (Bank of America) (delay the applicability date until the DOL finalizes its work and financial firms have a reasonable opportunity to implement its requirements); Comment Letter #222 (Vanguard) (at least 12 to 18 months from the date that the Department publishes its amended Final Rule, including exemptions, or confirms that there will be no other amendments or exemptions).

[13] *See* Comment Letter #180 (TD Ameritrade). *See also* Comment Letter #212 (American Bankers Association) (''it is difficult for institutions to determine where to allocate resources for compliance when the Department itself is in the process of re-examining the Fiduciary Rule's scope and content.''); Comment Letter #211 (Transamerica) (''[f]ailure to extend the January 1 applicability date will result in: (a) Companies such as Transamerica continuing to incur costs and business model changes to prepare for and implement a regulatory regime that might differ materially from the regime that results from the Rule in effect today. . ..''); See Comment Letter #109 (Securities Industry and Financial Markets Association); Comment Letter #293 (the SPARK Institute, Inc.) (''[u]ntil we know whether the Department intends to make changes to avoid the Regulation's negative impacts, and what those changes will be, our implementation efforts will be chasing a moving target. That approach not only results in significant inefficiencies, it also may result in potentially duplicative and unnecessary compliance costs if the Department modifies the Regulation. If the Department is seriously considering ways to reduce those burdens, it must delay the January 1, 2018 applicability date. Otherwise, firms will be forced to continue preparing for a rule that may never go into effect as currently drafted.'').

[14] Comment Letter #159 (Davis & Harman).

[15] Comment Letter #18 (T. Rowe Price Associates). *See also* Comment Letter #72 (National Association of Insurance and Financial Advisors). ([C]oordination with the SEC, which currently is undertaking a parallel public comment process, is essential.'') Other commenters mentioned the need to coordinate with FINRA, state insurance and other

believes that the outcome of such coordination should be that the SEC adopts the concept of the Impartial Conduct Standards, as contained in the PTEs, as a universal standard of care applicable to both brokerage and advisory relationships.[16]

With respect to recent and ongoing market developments, many commenters stated that a delay would allow for more efficient implementation responsive to these innovations, thereby reducing burdens on financial services providers and benefiting retirement investors. For instance, one industry commenter asserted that a delay in the applicability date would provide financial institutions with the necessary time to develop ''clean shares'' programs and minimize disruption for retirement investors. The commenter stated that ''[w]ithout a delay in the applicability date, a broker-dealer firm that believes the direction of travel is towards the clean share will be forced to either eliminate access to commissionable investment advice or make the fundamental business changes required by the Best Interest Contract Exemption in order to continue offering traditional commissionable mutual funds. Both approaches would be incredibly disruptive for investors who could have little choice but to either move to a fee-based advisory program in order to maintain access to advice or enter into a Best Interest Contract only to be transitioned into a clean shares program shortly thereafter, and would make it less likely that firms will evolve to clean shares.'' [17] A different industry commenter noted that serious consideration is being given to the use of mutual fund clean share classes in both fee-based and commissionable account arrangements, but that certain enumerated obstacles prevent their rapid adoption, stating that ''even absent any changes to the rule, more time is needed to develop clean shares and other long-term solutions to mitigate conflicts of interest.'' [18]

Consumer commenters expressed a concern with using recent and ongoing market developments as a basis for a blanket delay. It was asserted that if the Department decides to move forward with a delay, it should only allow firms to take advantage of the delay if they affirmatively show they have already taken concrete steps to harness recent market developments for their compliance plans. For example, one commenter contends that if a broker-dealer has decided that it is more efficient to move straight to clean shares rather than implementing the rule using T shares, the broker-dealer should, as a condition of delay, be required to provide evidence to the Department of the steps that it already has taken to distribute clean shares, including, for example, providing evidence of efforts to negotiate sellers agreements with funds that are offering clean shares. This commenter stated that the Department ''should not provide a blanket delay to all firms, including those firms that have not taken any meaningful, concrete steps to harness recent market developments and have no plans to do so. This narrowly tailored approach has the advantage of benefitting only those firms and, in turn, their customers that are using the delay productively rather than providing an undue benefit to firms that are merely looking for reasons to further stall implementation.'' [19]

With respect to risks to retirement investors from a delay, many industry commenters argue that the risks of a delay are very minimal, as they have largely been mitigated by the existing regulatory structure and the applicability of the Impartial Conduct Standards. For instance, regarding potential additional costs to retirement investors associated with any further delay, many industry commenters stated that these concerns have been mitigated, and indeed addressed by the Department, through the imposition of the Impartial Conduct Standards beginning on June 9, 2017. Various commenters indicated that Financial Institutions have, in fact, taken steps to ensure compliance with the Impartial Conduct Standards. Commenters have also pointed to the SEC and FINRA regulatory regimes as a means to ensure consumers are appropriately protected. It is the position of these commenters that there is little, if any, risk that consumers will be harmed by a delay of the January 1, 2018 applicability date.[20]

By contrast, many commenters representing consumers believe there is risk to consumers in further delaying these PTEs from becoming fully applicable on January 1, 2018. One commenter, for example, focused on the contract provision of the exemption, and expressed concern that delaying that provision would significantly undermine the protections and effectiveness of the rule.[21] Other commenters pointed to the number of covered transactions happening every day and emphasized the compounding nature of the harm if the applicability date is further delayed.[22] According to these commenters, retirement savings face undue risk without all of the protections of the Fiduciary Rule and PTEs. One commenter asserted that ''absent the contract requirement and the legal enforcement mechanism that goes with it, firms would no longer have a powerful incentive to comply with the Impartial Conduct Standards, implement effective anti-conflict policies and procedures, or carefully police conflicts of interest. It could be too easy for firms to claim they are complying with the PTEs, but still pay advisers in ways that encourage and reward them not to.'' [23]

Many commenters asserted that a delay would be advantageous both to retirement investors and firms; and, conversely, that rigid adherence to the

regulators in addition to the SEC. *See, e.g.,* Comment Letter #196 (Prudential Financial) (''assess, in conjunction with the SEC and the appropriate state regulatory bodies that also have jurisdiction with regard to investment advice retirement investors, the appropriate alignment of regulatory responsibility and oversight''); Comment Letter #266 (Edward D. Jones and Co.); Comment Letter #134 (Insured Retirement Institute). *See also* Comment Letter #212 American Bankers Association (mentioning the Office of the Comptroller of the Currency, the Federal Reserve, and the Federal Deposit Insurance Corporation).

[16] See Comment Letter #375 (Stifel Financial) (''As the SEC and DOL consider and coordinate on developing appropriate standards of conduct for retail retirement and taxable accounts, I propose a simple solution: the SEC adopt a principles-based standard of care for Brokerage and Advisory Accounts that incorporates the 'Impartial Conduct Standards'' as set forth in the DOL's Best Interest Contract Exemption.'' And to achieve consistency between retirement and taxable accounts, ''[t]he additional provisions of the Best Interest Contract should be eliminated.'').

[17] Comment Letter #208 (Capital Group).

[18] Comment Letter #229 (Investment Company Institute).

[19] Comment Letter #238 (Consumer Federation of America). *See also* Comment Letter #235 (Better Markets) (''In short, it would be arbitrary and capricious for the DOL to deprive millions of American workers and retirees the full protections and remedies provided by the Rule and the exemptions simply because the DOL may conclude that some adjustments to the Rule would be appropriate, or because some members of industry claim they need additional time to develop new products to help them more profitably navigate the Rule and the exemptions.'').

[20] *See* Comment Letter #147 (American Retirement Association); Comment Letter #222 (Vanguard) (''there is no need to rush to apply the remaining provisions of the Rule to protect investors because the Impartial Conduct Standards that are already applicable will provide sufficient protection for them during the 12–18 month implementation period we propose.''); Comment Letter #180 (TD Ameritrade); Comment Letters #111 and #131 (BARR Financial Services); Comment Letter #134 (Insured Retirement Institute).

[21] *See* Comment Letter #284 (Coalition of 20 Signatories, including AFGE, AFL–CIO, AFSCME, SEIU, NAEFE, Fund Democracy, and others); see also Comment Letter #238 (Consumer Federation of America).

[22] *See* Comment Letter #213 (AARP). *See also* Comment Letter #216 (American Association for Justice) (''As we previously stressed, the earlier delays have harmed investors, and any further delay would augment this problem rather than alleviating it.'').

[23] Comment Letter #238 (Consumer Federation of America).

January 1, 2018, applicability date would be harmful to both groups. With respect to firms, it was argued by many that the harm in terms of capital expenditures and outlays to meet PTE requirements (such as contract, warranty, policies and procedures, and disclosures) that are actively under consideration by the Department and that could change (or even be repealed) should be obvious to the Department.[24] With respect to harm to retirement investors from not delaying the applicability date, on the other hand, one commenter stated that ''the stampede to fee-based arrangements will leave many small and mid-sized investors without access to advice . . .'' and that ''retirement investors are losing access to some retirement products they need to ensure guaranteed lifetime incomes, including variable annuities, whose usage has plummeted. These market developments will cause more leakage and reduce already inadequate retirement resources for millions of retirement savers.'' [25] A different commenter stated that ''some firms announced that retirement investors seeking advice would be prohibited from commission-based accounts or would be barred from purchasing certain products, such as mutual funds and ETFs, in commission-based accounts'' and that ''[u]ntil the industry, with the assistance of regulators, is able to resolve availability of accounts and products previously available to retirement investors, and the mechanisms for payment for advice services, there will be disruption both to the industry and to retirement plans and investors seeking advice.''[26] Another commenter stated that ''it is easy to see how the average client will be confused by correspondence announcing changes to their investment products and business relationship (if the Rule becomes applicable), followed by correspondence announcing additional changes being made for yet another new regulatory scheme (if the Rule is rescinded or revised).'' [27]

Many commenters drew attention to pending litigation challenging the Fiduciary Rule and PTEs. In this regard, a commenter stated that ''[i]t would be poor process for DOL to allow the remaining requirements . . . to take effect on January 1, 2018, without providing detailed and clear guidance on critical open legal issues generated entirely by the DOL's own regulatory actions. '' [28] Another commenter similarly suggested that ''[a]t the very least, an extension is needed to ensure that the regulation accurately reflects the Department's position in litigation'' regarding the limitation on arbitration.[29]

Regarding the contract and warranty requirements, a significant number of commenters remain divided on these provisions, with many expressing concern about potential negative implications for access to advice and investor costs. Many financial service providers have expressed particular concern about the potential for class litigation and firm liability, and that absent a delay of those provisions, there will be a reduction in advice and services to consumers, particularly those with small accounts who may be most in need of good investment advice.[30] They have suggested that alternative approaches might promote the Department's interest in compliance with fiduciary standards, while minimizing the risk that firms restrict access to valuable advice and products based on liability concerns. These commenters argue that a delay of the applicability date is needed to allow the Department an opportunity to review the RFI responses and develop alternatives to these requirements. For instance, one commenter stated that ''the Department should further delay the January 1, 2018 applicability date of the contract, disclosure and warranty requirements of the BICE, Principal Transactions Exemption, and amendments to PTE 84–24, due to the high level of controversy surrounding the increased liabilities associated with these requirements—particularly when their incremental benefits are weighed against their harm to the retirement savings product marketplace.'' [31]

Based on its review and evaluation of the public comments, the Department is proposing to extend the Transition Period in the BIC Exemption and Principal Transaction Exemption for 18 months until July 1, 2019, and to delay the applicability date of certain amendments to PTE 84–24 for the same period. The same rules and standards in effect now would remain in effect throughout the duration of the extended Transition Period, if adopted. Thus, Financial Institutions and Advisers would have to give prudent advice that is in retirement investors' best interest, charge no more than reasonable compensation, and avoid misleading statements. It is based on the continued adherence to these fundamental protections that the Department, pursuant to 29 U.S.C. 1108, would consider granting the proposed extension until July 1, 2019.[32]

The Department believes a delay may be necessary and appropriate for multiple reasons. To begin with, the Department has not yet completed the reexamination of the Fiduciary Rule and PTEs, as directed by the President on

[24] *See, e.g.,* Comment Letter #229 (Investment Company Institute) (''a delay would result in substantial cost-savings for financial institutions by allow them to avoid the significant and burdensome costs of implementation that will likely ultimately prove unnecessary.''); Comment Letter #251 (Teachers Insurance and Annuity Association of America) (''we are very concerned that continuing to make significant staff and financial investments to satisfy the January 1 applicability date will ultimately prove both a considerable waste of resources and a source of confusion for retirement investors.''); Comment Letter #109 (Securities Industry and Financial Markets Association) (''[d]espite the uncertainties, our members have spent hundreds of millions of dollars thus far; causing them to spend still more without certainty of the ultimate requirements is not responsible.''); *See also* Comment Letter #196 (Prudential Financial), Comment Letter #169 (Madison Avenue Securities), Comment Letter #280 (Guardian Life Insurance Company of America) and Comment Letter #231 (Massachusetts Mutual Life Insurance Company).

[25] Comment Letter #256 (Jackson National Life Insurance Company). *See also* Comment Letter #211 (Transamerica) (pointing to reduced annuity sales).

[26] Comment Letter #18 (T. Rowe Price Associates).

[27] Comment Letter #90 (True Capital Advisors).

[28] Comment Letter #256 (Jackson National Life Insurance Company).

[29] Comment Letter #8 (U.S. Chamber of Commerce).

[30] *See, e.g.,* Comment Letter #293 (SPARK Institute, Inc.) (''[i]n response to the new definition of fiduciary investment advice that became applicable on June 9, 2017, some retirement investors have already been cut off from certain retirement products, offerings, and information. Smaller plans are losing access to information and guidance from their service providers. Also, because of increased litigation risk associated with the [PTEs] provisions set to become applicable on January 1, 2018, this contraction in retirement services will only become worse if the Department fails to delay the upcoming applicability date and materially revise the [Fiduciary Rule and PTEs].''). *See also* Comment Letter #289 (Sorrento Pacific Financial) (''We believe an extension of the Rule's January 1, 2018 applicability date necessary for the Department to thoroughly examine the Rule for adverse impacts on Americans' access to retirement investment advice and assistance, as required by the President's Memorandum. We are deeply concerned that the Rule will cause significant harm to retirement investors by restricting their access to retirement investment advice and services and subjecting firms to meritless litigation due to overly broad definitions contained in the Rule, and so we strongly support the Department in considering a further delay of the Rule and undertaking this examination.'').

[31] Comment Letter #267 (American Council of Life Insurers).

[32] On May 22, 2017, the Department issued a temporary enforcement policy covering the transition period between June 9, 2017, and January 1, 2018, during which the Department will not pursue claims against investment advice fiduciaries who are working diligently and in good faith to comply with their fiduciary duties and to meet the conditions of the PTEs, or otherwise treat those investment advice fiduciaries as being in violation of their fiduciary duties and not compliant with the PTEs. *See* Field Assistance Bulletin 2017–02 (May 22, 2017). Comments are solicited on whether to extend this policy for the same period covered by the proposed extension of the Transition Period.

February 3, 2017. More time is needed to carefully and thoughtfully review the substantial commentary received in response to the March 2, 2017, solicitation for comments and to honor the President's directive to take a hard look at any potential undue burden. Whether, and to what extent, there will be changes to the Fiduciary Rule and PTEs as a result of this reexamination is unknown until its completion. The examination will help identify any potential alternative exemptions or conditions that could reduce costs and increase benefits to all affected parties, without unduly compromising protections for retirement investors. The Department anticipates that it will have a much clearer image of the range of such alternatives once it carefully reviews the responses to the RFI. The Department also anticipates it will propose in the near future a new and more streamlined class exemption built in large part on recent innovations in the financial services industry. However, neither such a proposal nor any other changes or modifications to the Fiduciary Rule and PTEs, if any, realistically could be implemented by the current January 1, 2018, applicability date. Nor would that timeframe accommodate the Department's desire to coordinate with the SEC in the development of any such proposal or changes. The Chairman of the SEC has recently published a Request for Information seeking input on the ''standards of conduct for investment advisers and broker-dealers,'' and has welcomed the Department's invitation to engage constructively as the Commission moves forward with its examination of the standards of conduct applicable to investment advisers and broker-dealers, and related matters. Absent the proposed delay, however, Financial Institutions and Advisers would feel compelled to ready themselves for the provisions that become applicable on January 1, 2018, despite the possibility of alternatives on the horizon. Accordingly, the proposed delay avoids obligating financial services providers to incur costs to comply with conditions, which may be revised, repealed, or replaced, as well as attendant investor confusion.

Based on the evidence before it at this time while it continues to conduct this examination, the Department is proposing a time-certain delay of 18 months. The Department is also interested in an alternative approach raised by several commenters to the RFI, however—that the Department institute a delay that would end a specified period after a certain action on the part of the Department, *e.g.,* a delay lasting until 12 months after the Department concludes its review as directed by the Presidential Memorandum. The Department is concerned that this type of delay would provide insufficient certainty to Financial Institutions and other market participants who are working to comply with the full range of conditions under the relevant PTEs. Further, the Department is concerned that this type of delay would unnecessarily harm consumers by adding uncertainty and confusion to the market. Nevertheless, the Department requests comments on whether it could structure the delay in a way that could be beneficial to retirement investors and to market participants. If commenters think that such a structure would be beneficial, the Department requests comments regarding what event or action on the part of the Department should begin the period by which the end of the delay is measured (*e.g.,* the end of the Department's examination pursuant to the Presidential Memorandum, issuance of a proposed or final new PTEs or a statement that the Department does not intend any further changes or revisions).

Separately, the Department also requests comments on whether it would be beneficial to adopt a tiered approach. For example, this could be a final rule that delayed the Transition Period until the earlier or the later of (a) a date certain or (b) the end of a period following the occurrence of a defined event. The Department is particularly interested in comments as to whether such a tiered approach would provide sufficient certainty to be beneficial, and how best it could communicate with stakeholders the determination that one date or the other would trigger compliance. The Department is interested in comments that provide insight as to any relative benefits or harms of these three different delay approaches: (1) A delay set for a time certain, including the 18-months proposed by this document, (2) a delay that ends a specified period after the occurrence of a specific event, and (3) a tiered approach where the delay is set for the earlier of or the later of (a) a time certain and (b) the end of a specified period after the occurrence of a specific event.

Finally, several commenters suggested that the Department condition any delay of the Transition Period on the behavior of the entity seeking relief under the Transition Period. These commenters suggested generally that any delay should be conditioned, for example, on a Financial Institution's showing that it has, or a promise that it will, take steps to harness recent innovations in investment products and services, such as ''clean shares.'' Conditions of this type generally seem more relevant in the context of considering the development of additional and more streamlined exemption approaches that take into account recent marketplace innovations and less appropriate and germane in the context of a decision whether to extend the Transition Period. Although this proposal, therefore, does not adopt this approach, the Department solicits comments on this approach, in particular the benefits and costs of this suggestion, and ways in which the Department could ensure the workability of such an approach.

D. Regulatory Impact Analysis

The Department expects that this proposed transition period extension would produce benefits that justify associated costs. The proposed extension would avert the possibility of a costly and disorderly transition from the Impartial Conduct Standards to full compliance with the exemption conditions, and thereby reduce some compliance costs. As stated above, the Department currently is engaged in the process of reviewing the Fiduciary Rule and PTEs as directed in the Presidential Memorandum and reviewing comments received in response to the RFI. As part of this process, the Department will determine whether further changes to the Fiduciary Rule and PTEs are necessary. Although many firms have taken steps to ensure that they are meeting their fiduciary obligations and satisfying the Impartial Conduct Standards of the PTEs, they are encountering uncertainty regarding the potential future revision or possible repeal of the Fiduciary Rule and PTEs. Therefore, as reflected in the comments, many financial firms have slowed or halted their efforts to prepare for full compliance with the exemption conditions that currently are scheduled to become applicable on January 1, 2018, because they are concerned about committing resources to comply with PTE conditions that ultimately could be modified or repealed. This proposed applicability date extension will assure stakeholders that they will not be subject to the other exemption conditions in the BIC and the Principal Transaction PTEs until at least July 1, 2019. Of course, the benefits of extending the transition period generally will be proportionately larger for those firms that currently have committed fewer resources to comply with the full exemption conditions. The Department's objective is to complete its

review pursuant to the President's Memorandum, analyze comments received in response to the RFI, and propose and finalize any changes to the Rule or PTEs sufficiently before July 1, 2019, to provide firms with sufficient time to design and implement an orderly transition process.

The Department believes that investor losses from the proposed transition period extension could be relatively small. Because the Fiduciary Rule and the Impartial Conduct Standards became applicable on June 9, 2017, the Department believes that firms already have made efforts to adhere to the rule and those standards. Thus, the Department believes that relative to deferring all of the provisions of the Fiduciary Rule and PTEs, a substantial portion of the investor gains predicted in the Department's 2016 regulatory impact analysis of the Fiduciary Rule and PTEs (2016 RIA) would remain intact for the proposed extended transition period.

1. Executive Order 12866 Statement

This proposal is an economically significant action within the meaning of section 3(f)(1) of Executive Order 12866, because it would likely have an effect on the economy of $100 million in at least one year. Accordingly, the Department has considered the costs and benefits of the proposal, which has been reviewed by the Office of Management and Budget (OMB).

a. Investor Gains

The Department's 2016 RIA estimated a portion of the potential gains for IRA investors at between $33 billion and $36 billion over the first 10 years for one segment of the market and category of conflicts of interest. It predicted, but did not quantify, additional gains for both IRA and ERISA plan investors.

With respect to this proposal, the Department considered whether investor losses might result. Beginning on June 9, 2017, Financial Institutions and Advisers generally are required to (1) make recommendations that are in their client's best interest (*i.e.,* IRA recommendations that are prudent and loyal), (2) avoid misleading statements, and (3) charge no more than reasonable compensation for their services. If they fully adhere to these requirements, the Department expects that affected investors will generally receive a significant portion of the estimated gains. However, because the PTE conditions are intended to support and provide accountability mechanisms for such adherence (*e.g.,* conditions requiring advisers to provide a written acknowledgement of their fiduciary status and adherence to the Impartial Conduct Standards and enter into enforceable contracts with IRA investors) the Department acknowledges that the proposed delay of the PTE conditions may result in deferral of some of the estimated investor gains. One RFI commenter suggested that an additional one-year extension of the transition period during which the full PTE conditions would not apply would reduce the incentive for mutual fund companies to market lower-cost and higher-performing funds, which will reduce consumer access to such products, resulting in consumer losses. This commenter argued that in the case of IRA rollovers, the consumer losses from continued conflicted advice and reduced access to more consumer-friendly investment products could compound for decades.

Advisers who presently are ERISA-plan fiduciaries are especially likely to satisfy fully the PTEs' Impartial Conduct Standards before July 1, 2019, because they are subject to ERISA standards of prudence and loyalty and thus would be subject to claims for civil liability under ERISA if they violate their fiduciary obligations or fail to satisfy the Impartial Conduct Standards if they use an exemption. Moreover, fiduciary advisers who do not provide impartial advice as required by the Rule and PTEs in the IRA market would violate the prohibited transaction rules of the Code and become subject to the prohibited transaction excise tax. Even though advisers currently are not specifically required by the terms of these PTEs to notify retirement investors of the Impartial Conduct Standards and to acknowledge their fiduciary status, many investors expect they are entitled to advice that adheres to a fiduciary standard because of the publicity the final rule and PTEs have received from the Department and media, and the Department understands that many advisers notified consumers voluntarily about the imposition of the standard and their adherence to that standard as a best practice.

Comments received by the Department indicate that many financial institutions already have completed or largely completed work to establish policies and procedures necessary to make many of the business structure and practice shifts necessary to support compliance with the Fiduciary Rule and Impartial Conduct Standards (*e.g.,* drafting and implementing training for staff, drafting client correspondence and explanations of revised product and service offerings, negotiating changes to agreements with product manufacturers as part of their approach to compliance with the PTEs, changing employee and agent compensation structures, and designing product offerings that mitigate conflicts of interest). The Department believes that many financial institutions are using this compliance infrastructure to ensure that they currently are meeting the requirements of the Fiduciary Rule and Impartial Conduct Standards, which the Department believes will largely protect the investor gains estimated in the 2016 RIA.[33]

b. Cost Savings

Based on comments received in response to the RFI that are discussed in Section C, above, the Department believes firms that are fiduciaries under the Fiduciary Rule have committed resources to implementing procedures to support compliance with their fiduciary obligations. This may include changing their compensation structures and monitoring the practices and procedures of their advisers to ensure that conflicts of interest do not cause violations of the Fiduciary Rule and Impartial Conduct Standards of the PTEs and maintaining sufficient records to corroborate that they are complying with the Fiduciary Rule and PTEs. These firms have considerable flexibility to choose precisely how they will achieve compliance with the PTEs during the proposed extended transition period. The Department does not have sufficient data to estimate such costs; therefore, they are not quantified.

Some commenters have asserted that the proposed transition period extension could result in cost savings for firms compared to the costs that were estimated in the Department's 2016 RIA to the extent that the requirements of the Fiduciary Rule and PTE conditions are modified in a way that would result in less expensive compliance costs. However, the Department generally believes that start-up costs not yet incurred for requirements now scheduled to become applicable on January 1, 2018, should not be included, at this time, as a cost savings associated with this proposal because the proposal would merely delay the full implementation of certain conditions in the PTEs until July 1, 2019, while the Department considers whether to propose changes and alternatives to the exemptions. The Department would be required to assume for purposes of this regulatory

[33] The Department's baseline for this RIA includes all current rules and regulations governing investment advice including those that would become applicable on January 1, 2018, absent this proposed delay. The RIA did not quantify incremental gains by each particular aspect of the rule and PTEs.

impact analysis that those start-up costs that have not been incurred generally would be delayed rather than avoided unless or until the Department acts to modify the compliance obligations of firms and advisers to make them more efficient. Nonetheless, even based on that assumption, there may be some cost savings that could be quantified as arising from the delay being proposed in this document because some ongoing costs would not be incurred until July 1, 2019. The Department has taken two approaches to quantifying the savings resulting from the delay in incurring ongoing costs: (1) Quantifying the costs based on a shift in the time horizon of the costs (*i.e.,* comparing the present value of the costs of complying over a ten year period beginning on January 1, 2018 with the costs of complying, instead, over a ten year period beginning on July 1, 2019); and (2) quantifying the reduced costs during the 18 month period of delay from January 1, 2018 to July 1, 2019, during which regulated parties would otherwise have had to comply with the full conditions of the BIC Exemption and Principal Transaction Exemption but for the delay.

The first of the two approaches reflects the time value of money (*i.e.,* the idea that money available at the present time is worth more than the same amount of money in the future, because that money can earn interest). The deferral of ongoing costs by 18 months will allow the regulated community to use money they would have spent on ongoing compliance costs for other purposes during that time period. The Department estimates that the ten-year present value of the cost savings arising from this 18 month deferral of ongoing compliance costs, and the regulated community's resulting ability to use the money for other purposes is $551.6 million using a three percent discount rate [34] and $1.0 billion using a seven percent discount rate.[35]

The second of the two approaches simply estimates the expenses foregone during the period from January 1, 2018 to July 1, 2019 as a result of the delay. When the Department published the 2016 Final Rule and accompanying PTEs, it calculated that the total ongoing compliance costs of the rule and PTEs were $1.5 billion annually. Therefore, the Department estimates the ten-year present value of the cost savings of firms not being required to incur ongoing compliance costs during an 18 month delay would be approximately $2.2 billion using a three percent discount rate [36] and $2.0 billion using a seven percent discount rate.[37] [38]

Based on its progress thus far with the review and reexamination directed by the President, however, the Department believes there may be evidence of alternatives that reduce costs and increase benefits to all affected parties, while maintaining protections for retirement investors. The Department anticipates that it will have a much clearer image of the range of such alternatives once it completes a careful review of the data and evidence submitted in response to the RFI.

The Department also cannot determine at this time to what degree the infrastructure that affected firms have already established to ensure compliance with the Fiduciary Rule and PTEs exemptions would be sufficient to facilitate compliance with the Fiduciary Rule and PTEs conditions if they are modified in the future.

c. Alternatives Considered

While the Department considered several alternatives that were informed by public comments, this proposal likely would yield the most desirable outcome including avoidance of costly market disruptions and investor losses. In weighing different options, the Department took numerous factors into account. The Department's objective was to avoid unnecessary confusion and uncertainty in the investment advice market, facilitate continued marketplace innovation, and minimize investor losses.

The Department considered not proposing any extension of the transition period, which would mean that the remaining conditions in the PTEs would become applicable on January 1, 2018. The Department is not pursuing this alternative, however, because it would not provide sufficient time for the Department to complete its ongoing review of, or propose and finalize any changes to the Fiduciary Rule and PTEs. Moreover, absent the proposed extension of the transition period, Financial Institutions and Advisers would feel compelled to prepare for full compliance with PTE conditions that become applicable on January 1, 2018, the applicability date of the additional PTE conditions despite the possibility that the Department could adopt more efficient alternatives. This could lead to unnecessary compliance costs and market disruptions. As compared to a shorter delay with the possibility of consecutive additional delays, if needed, this proposal would provide more certainty for affected stakeholders because it sets a firm date for full compliance, which would allow for proper planning and reliance. The Department's objective would be to complete its review of the Fiduciary Rule and PTEs pursuant to the President's Memorandum and the RFI responses sufficiently in advance of July 1, 2019, to provide firms with enough time to prepare for whatever action is prompted by the review. As discussed above, the Department believes that investor losses associated with this proposed extension would be relatively small. The fact that the Fiduciary Rule and the Impartial Conduct Standards are now in effect makes it likely that retirement investors will experience much of the potential gains from a higher conduct standard and minimizes the potential for an undue reduction in those gains as compared to the full protections of all the PTE conditions as discussed in the 2016 Regulatory Impact Analysis.

2. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501, *et seq.*) prohibits federal agencies from conducting or sponsoring a collection of information from the public without first obtaining approval from the Office of Management and Budget (OMB). See 44 U.S.C. 3507. Additionally, members of the public are not required to respond to a collection of information, nor be subject to a penalty for failing to respond, unless such collection displays a valid OMB control number. See 44 U.S.C. 3512.

OMB has previously approved information collections contained in the Fiduciary Rule and PTEs. The Department now is proposing to extend the transition period for the full conditions of the PTEs associated with its Fiduciary Rule until July 1, 2019. The Department is not proposing to modify the substance of the information collections at this time; however, the current OMB approval periods of the information collection requests (ICRs) expire prior to the new proposed applicability date for the full conditions of the PTEs as they currently exist. Therefore, many of the information collections will remain inactive for the remainder of the current ICR approval periods. The ICRs contained in the exemptions are discussed below.

[34] Annualized to $64.7 million per year.

[35] Annualized to $143.9 million per year.

[36] Annualized to $252.1 million per year.

[37] Annualized to $291.1 million per year.

[38] The Department notes that firms may be incurring some costs to comply with the impartial conduct standards; however, it has no data to enable it to estimate these costs. The Department solicits comments on the costs of complying with the impartial conduct standards, and how these costs interact with the costs of all other facets of compliance with the conditions of the PTEs.

PTE 2016–01, the Best Interest Contract Exemption: The information collections in PTE 2016–01, the BIC Exemption, are approved under OMB Control Number 1210–0156 through June 30, 2019. The exemption requires disclosure of material conflicts of interest and basic information relating to those conflicts and the advisory relationship (Sections II and III), contract disclosures, contracts and written policies and procedures (Section II), pre-transaction (or point of sale) disclosures (Section III(a)), web-based disclosures (Section III(b)), documentation regarding recommendations restricted to proprietary products or products that generate third party payments (Section (IV), notice to the Department of a Financial Institution's intent to rely on the PTE, and maintenance of records necessary to prove that the conditions of the PTE have been met (Section V). Although the start-up costs of the information collections as they are set forth in the current PTE may not be incurred prior to June 30, 2019 due to uncertainty around the Department's ongoing consideration of whether to propose changes and alternatives to the exemptions, they are reflected in the revised burden estimate summary below. The ongoing costs of the information collections will remain inactive through the remainder of the current approval period.

For a more detailed discussion of the information collections and associated burden of this PTE, see the Department's PRA analysis at 81 FR 21002, 21071.

PTE 2016–02, the Prohibited Transaction Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (Principal Transactions Exemption): The information collections in PTE 2016–02, the Principal Transactions Exemption, are approved under OMB Control Number 1210–0157 through June 30, 2019. The exemption requires Financial Institutions to provide contract disclosures and contracts to Retirement Investors (Section II), adopt written policies and procedures (Section IV), make disclosures to Retirement Investors and on a publicly available Web site (Section IV), maintain records necessary to prove they have met the PTE conditions (Section V). Although the start-up costs of the information collections as they are set forth in the current PTE may not be incurred prior to June 30, 2019 due to uncertainty around the Department's ongoing consideration of whether to propose changes and alternatives to the exemptions, they are reflected in the revised burden estimate summary below. The ongoing costs of the information collections will remain inactive through the remainder of the current approval period.

For a more detailed discussion of the information collections and associated burden of this PTE, see the Department's PRA analysis at 81 FR 21089, 21129.

Amended PTE 84–24: The information collections in Amended PTE 84–24 are approved under OMB Control Number 1210–0158 through June 30, 2019. As amended, Section IV(b) of PTE 84–24 requires Financial Institutions to obtain advance written authorization from an independent plan fiduciary or IRA holder and furnish the independent fiduciary or IRA holder with a written disclosure in order to receive commissions in conjunction with the purchase of insurance and annuity contracts. Section IV(c) of PTE 84–24 requires investment company Principal Underwriters to obtain approval from an independent fiduciary and furnish the independent fiduciary with a written disclosure in order to receive commissions in conjunction with the purchase by a plan of securities issued by an investment company Principal Underwriter. Section V of PTE 84–24, as amended, requires Financial Institutions to maintain records necessary to demonstrate that the conditions of the PTE have been met.

The proposal delays the applicability date of amendments to PTE 84–24 until July 1, 2019, except that the Impartial Conduct Standards became applicable on June 9, 2017. The Department does not have sufficient data to estimate that number of respondents that will use PTE 84–24 with the inclusion of Impartial Conduct Standards but delayed applicability date of amendments. Therefore, the Department has not revised its burden estimate.

For a more detailed discussion of the information collections and associated burden of this PTE, see the Department's PRA analysis at 81 FR 21147, 21171.

These paperwork burden estimates, which comprise start-up costs that will be incurred prior to the July 1, 2019 effective date (and the June 30, 2019 expiration date of the current approval periods), are summarized as follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Titles: (1) Best Interest Contract Exemption and (2) Final Investment Advice Regulation.

OMB Control Number: 1210–0156.

Affected Public: Businesses or other for-profits; not for profit institutions.

Estimated Number of Respondents: 19,890 over the three year period; annualized to 6,630 per year.

Estimated Number of Annual Responses: 34,046,054 over the three year period; annualized to 11,348,685 per year.

Frequency of Response: When engaging in exempted transaction.

Estimated Total Annual Burden Hours: 2,125,573 over the three year period; annualized to 708,524 per year.

Estimated Total Annual Burden Cost: $2,468,487,766 during the three year period; annualized to $822,829,255 per year.

Agency: Employee Benefits Security Administration, Department of Labor.

Titles: (1) Prohibited Transaction Exemption for Principal Transactions in Certain Assets between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs and (2) Final Investment Advice Regulation.

OMB Control Number: 1210–0157.

Affected Public: Businesses or other for-profits; not for profit institutions.

Estimated Number of Respondents: 6,075 over the three year period; annualized to 2,025 per year.

Estimated Number of Annual Responses: 2,463,802 over the three year period; annualized to 821,267 per year.

Frequency of Response: When engaging in exempted transaction; Annually.

Estimated Total Annual Burden Hours: 45,872 over the three year period; annualized to 15,291 per year.

Estimated Total Annual Burden Cost: $1,955,369,661 over the three year period; annualized to $651,789,887 per year.

Agency: Employee Benefits Security Administration, Department of Labor.

Titles: (1) Prohibited Transaction Exemption (PTE) 84–24 for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies and Investment Company Principal Underwriters and (2) Final Investment Advice Regulation.

OMB Control Number: 1210–0158.

Affected Public: Businesses or other for-profits; not for profit institutions.

Estimated Number of Respondents: 21,940.

Estimated Number of Annual Responses: 3,306,610.

Frequency of Response: Initially, Annually, When engaging in exempted transaction.

Estimated Total Annual Burden Hours: 172,301 hours.

Estimated Total Annual Burden Cost: $1,319,353.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal Rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other laws. Unless the head of an agency certifies that a proposed rule is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires that the agency present an initial regulatory flexibility analysis (IRFA) describing the Rule's impact on small entities and explaining how the agency made its decisions with respect to the application of the Rule to small entities. Small entities include small businesses, organizations and governmental jurisdictions.

This proposal merely extends the transition period for the PTEs associated with the Department's 2016 Final Fiduciary Rule. Accordingly, pursuant to section 605(b) of the RFA, the Deputy Assistant Secretary of the Employee Benefits Security Administration hereby certifies that the proposal will not have a significant economic impact on a substantial number of small entities.

4. Congressional Review Act

This proposal is subject to the Congressional Review Act (CRA) provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and will be transmitted to Congress and the Comptroller General for review if finalized. The proposal is a ''major rule'' as that term is defined in 5 U.S.C. 804, because it is likely to result in an annual effect on the economy of $100 million or more.

5. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. For purposes of the Unfunded Mandates Reform Act, as well as Executive Order 12875, this proposal does not include any federal mandate that we expect would result in such expenditures by State, local, or tribal governments, or the private sector. The Department also does not expect that the proposed delay will have any material economic impacts on State, local or tribal governments, or on health, safety, or the natural environment.

6. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. Section 2(a) of Executive Order 13771 requires an agency, unless prohibited by law, to identify at least two existing regulations to be repealed when the agency publicly proposes for notice and comment, or otherwise promulgates, a new regulation. In furtherance of this requirement, section 2(c) of Executive Order 13771 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.

The impacts of this proposal are categorized consistently with the analysis of the original Fiduciary Rule and PTEs, and the Department has also concluded that the impacts identified in the Regulatory Impact Analysis accompanying the 2016 final rule may still be used as a basis for estimating the potential impacts of that final rule. It has been determined that, for purposes of E.O. 13771, the impacts of the Fiduciary Rule that were identified in the 2016 analysis as costs, and that are presently categorized as cost savings (or negative costs) in this proposal, and impacts of the Fiduciary Rule that were identified in the 2016 analysis as a combination of transfers and positive benefits are categorized as a combination of (opposite-direction) transfers and negative benefits in this proposal. Accordingly, OMB has determined that this proposal, if finalized as proposed, would be an E.O. 13771 deregulatory action.

E. List of Proposed Amendments to Prohibited Transaction Exemptions

The Secretary of Labor has discretionary authority to grant administrative exemptions under ERISA and the Code on an individual or class basis, but only if the Secretary first finds that the exemptions are (1) administratively feasible, (2) in the interests of plans and their participants and beneficiaries and IRA owners, and (3) protective of the rights of the participants and beneficiaries of such plans and IRA owners. 29 U.S.C. 1108(a); see also 26 U.S.C. 4975(c)(2).

Under this authority, and based on the reasons set forth above, the Department is proposing to amend the: (1) Best Interest Contract Exemption (PTE 2016–01); (2) Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (PTE 2016–02); and (3) Prohibited Transaction Exemption 84–24 (PTE 84–24) for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies, and Investment Company Principal Underwriters, as set forth below. These amendments would be effective on the date of publication in the **Federal Register** of final amendments or January 1, 2018, whichever is earlier.

1. The BIC Exemption (PTE 2016–01) would be amended as follows:

A. The date ''January 1, 2018'' would be deleted and ''July 1, 2019'' inserted in its place in the introductory **DATES** section.

B. *Section II(h)(4)—Level Fee Fiduciaries* provides streamlined conditions for ''Level Fee Fiduciaries.'' The date ''January 1, 2018'' would be deleted and ''July 1, 2019'' inserted in its place. Thus, for Level Fee Fiduciaries that are robo-advice providers, and therefore not eligible for Section IX (pursuant to Section IX(c)(3)), the Impartial Conduct Standards in Section II(h)(2) are applicable June 9, 2017, but the remaining conditions of Section II(h) would be applicable July 1, 2019, rather than January 1, 2018.

C. *Section II(a)(1)(ii)* provides for the amendment of existing contracts by negative consent. The date ''January 1, 2018'' would be deleted where it appears in this section, including in the definition of ''Existing Contract,'' and ''July 1, 2019'' inserted in its place.

D. *Section IX—Transition Period for Exemption.* The date ''January 1, 2018'' would be deleted and ''July 1, 2019'' inserted in its place. Thus, the Transition Period identified in Section IX(a) would be extended from June 9, 2017, to July 1, 2019, rather than June 9, 2017, to January 1, 2018.

2. The Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (PTE 2016–02), would be amended as follows:

A. The date ''January 1, 2018'' would be deleted and ''July 1, 2019'' inserted in its place in the introductory **DATES** section.

B. *Section II(a)(1)(ii)* provides for the amendment of existing contracts by negative consent. The date ''January 1, 2018'' would be deleted where it appears in this section, including in the definition of ''Existing Contract,'' and ''July 1, 2019'' inserted in its place.

C. *Section VII—Transition Period for Exemption.* The date ''January 1, 2018'' would be deleted and ''July 1, 2019'' inserted in its place. Thus, the Transition Period identified in Section VII(a) would be extended from June 9, 2017, to July 1, 2019, rather than June 9, 2017, to January 1, 2018.

3. Prohibited Transaction Exemption 84–24 for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies, and Investment Company Principal Underwriters, would be amended as follows:

A. The date ''January 1, 2018'' would be deleted where it appears in the introductory **DATES** section and ''July 1, 2019'' inserted in its place.

Signed at Washington, DC, this 28th day of August 2017.

Timothy D. Hauser,

Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, Department of Labor.

[FR Doc. 2017–18520 Filed 8–30–17; 8:45 am]

BILLING CODE 4510–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0397; FRL–9967–19–Region 5]

Air Plan Approval; Illinois; Rule Part 225, Control of Emissions From Large Combustion Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Illinois state implementation plan (SIP) to amend requirements applicable to certain coal-fired electric generating units (EGUs). These amendments require the Will County 3 and Joliet 6, 7, and 8 EGUs to permanently cease combusting coal; allow other subject EGUs to cease combusting coal as an alternative means of compliance with mercury emission standards; exempt the Will County 4 EGU from sulfur dioxide (SO_2) control technology requirements; require all subject EGUs to comply with a group annual nitrogen oxide (NO_X) emission rate; and require only those subject EGUs that combust coal to comply with a group annual SO_2 emission rate.

DATES: Comments must be received on or before October 2, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0397 at *http://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategy Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. Discussion of the State's Submittal
  A. Rule Revisions That EPA Is Proposing To Approve
  B. Rule Revisions for Which EPA Is Taking No Action
  C. Analysis of the State's Submittal
III. What action is EPA taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background

On June 24, 2011, Illinois EPA submitted to EPA state rules to address the visibility protection requirements of Section 169A of the Clean Air Act (CAA) and the regional haze rule, as codified in 40 CFR 51.308. This submission included the following provisions contained in Title 35 of the Illinois Administrative Code (IAC), Part 225 (Part 225): sections 225.291, 225.292, 225.293, 225.295 and 225.296 (except for 225.296(d)), and Appendix A to Part 225. On July 6, 2012, EPA approved these provisions (77 FR 39943).

On June 23, 2016, Illinois submitted revisions to these rules and on January 9, 2017, Illinois submitted additional information explaining the revisions.[1] These rules are known as the ''Combined Pollutant Standard,'' and are codified at 35 IAC Part 225, Subpart B, titled ''Control of Emissions from Large Combustion Sources'' (CPS or Part 225 rules). The CPS provides certain EGUs an alternative means of compliance with the mercury emission standards in 35 IAC 225.230(a).[2] The CPS applies to EGUs at six power plants, which are identified in Appendix A to the CPS. Illinois is revising the CPS to address the conversion of certain EGUs to fuel other than coal.

II. Discussion of the State's Submittal

A. Rule Revisions That EPA Is Proposing To Approve

EPA is proposing to approve the following revisions as part of Illinois' SIP:

Section 225.291 Combined Pollutant Standard: Purpose

SIP Section 225.291 sets forth the purpose of the CPS, which is to allow an alternate means of compliance with the emissions standards for mercury in 35 IAC 225.230(a) for specified EGUs through permanent shutdown, the installation of an activated carbon injection system, or the application of pollution control technology for NO_X, SO_2, and particulate matter (PM) emissions that also reduce mercury emissions as a co-benefit.

Illinois revised section 225.291 by stating as its purpose the conversion of an EGU to a fuel other than coal (such as natural gas or distillate fuel oil with sulfur content no greater than 15 parts per million (ppm)) as an additional alternative means of compliance with the mercury emission standards under the CPS.

[1] Illinois' final rule amended other state regulations, Parts 214 (Sulfur limitations), and Part 217(Nitrogen oxide emissions), and other portions of Part 225, that are not part of the Illinois SIP, and were not submitted to EPA as part of this action. Illinois stated in its statement of reasons for the final rule that these revisions are proposed to control emissions of sulfur dioxide (SO_2) in and around areas designated as nonattainment with respect to the 2010 National Ambient Air Quality Standard (NAAQS), and are intended to aid Illinois' attainment planning efforts for the 2010 SO_2 NAAQS.

[2] 35 IAC 225.230 contains Illinois' mercury emission standards for EGUs, and is not part of the federally enforceable SIP.

Section 225.292 Applicability of the Combined Pollutant Standard

SIP Section 225.292 describes the applicability of the CPS to the owner or operator of EGUs located at the Fisk, Crawford, Joliet, Powerton, Waukegan, and Will County power plants, which are specified in Appendix A of section 225. This section establishes what constitutes ownership of an EGU under the CPS, which EGUs may elect to comply with the CPS, the process by which an owner or operator may elect to demonstrate compliance with the emission standards for mercury at 35 IAC 225.230 pursuant to the CPS, and compliance deadlines.

Illinois revised subsection (b) of section 225.292 to address EGUs that burn fuel other than coal. Illinois removed a reference that describes specified EGUs as ''coal-fired,'' and added a statement that a ''specified EGU'' is an EGU listed in Appendix A of section 225, irrespective of, among other things, ''the type of fuel combusted (including natural gas or distillate fuel oil with sulfur content no greater than 15 ppm).'' Illinois further amended subsection (a) of 225.292 by adding the word ''the'' before listing the specific power plants to which the CPS applies.

Section 225.293 Combined Pollutant Standard: Notice of Intent

SIP Section 225.293 contains the notification requirements for the owner or operator of one or more specified EGUs who elects to comply with the mercury emission standards in 35 IAC 225.230 by means of the CPS.

Illinois amended this section by adding subsection (d), which establishes a notification requirement for owners and operators of EGUs listed in Appendix A of section 225 who, on or after January 1, 2015, change the type of primary fuel combusted by the unit or the control device or devices installed and operating on the unit. Such owners and operators must notify Illinois EPA of such change by January 1, 2017, or within 30 days after the completion of such change, whichever is later.

Section 225.295 Combined Pollutant Standard: Emissions Standards for NO_X and SO_2

SIP Section 225.295 contains the emission standards, reporting requirements, and compliance dates for NO_X and SO_2 applicable to the EGUs in the CPS group. Of relevance here, subsection (a) contains the NO_X emission standards and reporting requirements, subsection (b) contains the emission standards for SO_2, and subsection (d) contains requirements for determining the CPS group average annual SO_2 emission rate, annual NO_X emission rate and ozone season NO_X emission rates.

Illinois amended this section to include specified EGUs that burn fuel other than coal. Section 225.295(a)(1) and (a)(2) was revised to specify that the NO_X emission rates apply to all EGUs in the CPS ''regardless of the type of fuel combusted.'' The NO_X emission standard for both the CPS group average annual and ozone season emission rate remains unchanged at 0.11 pounds/million British thermal unit (lbs/mmBtu).

Illinois further amended Section 225.295 to specify that the SO_2 emission standards in subsections (b) only apply to those specified EGUs in the CPS group that combust coal.

Finally, Illinois revised Section 225.295(d) to specify that the calculations for determining the group annual average SO_2 emission rate only applies to those specified EGUs that combust coal identified in subsection (b); and to change the references from ''tons'' to ''lbs'' used in the equations to determine compliance with the CPS group average annual SO_2 emission rate, annual NO_X emission rate and the ozone season NO_X emission rate, on a lbs/mmBTU basis.

Section 225.296 Combined Pollutant Standard: Control Technology Requirements for NO_X, SO_2, and PM Emissions

SIP Section 225.296 sets forth control technology requirements and compliance dates for SO_2, NO_X, and PM emissions for specified EGUs under the CPS. It also contains certain exemptions from compliance.

Illinois amended section 225.296(b)—''Other Control Technology Requirements for SO_2,'' to require that Will County 3 stop combusting coal on and after April 16, 2016, and Joliet 6, 7, and 8 stop combusting coal on and after December 31, 2016. Additionally, Illinois added to the requirements for the owners or operators of the other specified EGUs in Appendix A of section 225 the option to permanently cease combusting coal in addition to permanent shutdown or installation of fluidized gas desulfurization (FGD) equipment on or before December 18, 2018, unless an earlier date applies. Illinois further exempts Will County 4 from compliance with this section instead of Joliet 6.[3]

Illinois further amended section 225.296(c)—''Control Technology Requirements for PM'' to remove Will County 3 from the compliance requirements for PM in this section, which requires the owner or operator to make certain changes to the electrostatic precipitator or permanently shut down the EGU by the date specified in this section. Section 225.296(c) now only applies to Waukegan 7, which was required to be in compliance with this section on or before December 31, 2013.

Section 225 Appendix A: Specified EGUs for Purposes of the Combined Pollutant Standard

Appendix A of SIP Section 225 identifies the EGUs that are subject to the CPS. Illinois revised this section by removing references to ''Midwest Generation,'' and leaving the names of the city of the plants and the identification of the EGUs. This administrative change will eliminate the need for revisions to this section should there be future changes in ownership of the EGUs in Appendix A.

B. Rule Revisions for Which EPA Is Taking No Action

Illinois' final rule also amended 35 IAC Part 214 (Sulfur Limitations), Part 217 (Nitrogen Oxides Emissions), and other portions of Part 225 that are not part of Illinois' SIP and for which EPA is taking no action.

Most relevant to this action, Illinois amended section 225.295, ''Emission Standards for NO_X and SO_2'' (discussed above) by adding subsection (a)(4). New subsection (a)(4) states, ''the specified EGUs are not subject to the requirements set forth in 35 Ill. Adm. Code 217, Subpart M, including without limitation the NO_X emission standards set forth in 35 Ill. Adm. Code 217.344.''

EPA is taking no action on this amendment because the requirements of 35 Ill. Adm. Code 217, Subpart M, are not approved as part of the Illinois SIP, and Illinois EPA has not submitted the requirements for approval. Therefore, EPA is taking no action with respect to 35 IAC 225.295(a)(4).

C. Analysis of the State's Submittal

EPA is proposing to approve the revisions discussed above because the revisions meet all applicable requirements under the CAA, consistent with section 110(k)(3) of the CAA and the regional haze rule. Furthermore, the revisions do not interfere with any applicable requirement concerning

[3] According to Illinois, the Joliet 6 EGU was incorrectly identified in this section as ''Joliet 5'' because Joliet 6 is powered by ''Boiler 5'' at the facility. Technical Support Document at 11. All references to Joliet 6 in this action refer to the Joliet 5 EGU identified in 35 IAC 225.296(b).

attainment and reasonable further progress or any other applicable CAA requirement, consistent with section 110(*l*) of the CAA.

1. The Revisions Do Not Interfere With Illinois' Regional Haze SIP Rules

The proposed SIP revisions do not interfere with Illinois' regional haze SIP rules. Illinois relied on emission reductions of NO_X and SO_2 achieved through implementation of the CPS in its SIP submittal to EPA for the regional haze SIP rules. Illinois has shown that the proposed SIP revisions will result in significant reductions of emissions of SO_2, and no change or potential reductions in emissions of NO_X. Additionally, although Illinois did not rely on emission reductions of PM in its regional haze SIP submittal, Illinois has shown that the proposed SIP amendments should result in reductions of PM emissions.

First, Illinois has shown that the amendments to the CPS will result in significantly lower emissions of SO_2 from the converted EGUs. EGUs that combust natural gas emit trace amounts of SO_2. Using EPA's Air Markets Program Division Data, Illinois has estimated that the amendments will result in reductions of more than 6,000 tons of SO_2 annually in 2017, and more than 4,500 tons of SO_2 annually in 2019 and subsequent years, beyond what would occur under the original CPS emission standards. Illinois assumed that the EGUs will continue to operate with the same heat input after their conversion. Illinois believes that this is a conservative estimate of emissions because the converted EGUs will likely not be operating as frequently and the heat inputs should lower, which would also result in lower emissions. *See* Section 3.3 of Illinois EPA's Technical Support Document for Proposed Rule Revisions Necessary to Demonstrate Attainment of the One-Hour NAAQS for Oxides of Sulfur (TSD).

In addition, by applying the SO_2 group annual emission rates to only those EGUs that combust coal, the SO_2 emission rates will effectively become more stringent. This is because there will be fewer EGUs to average after the four EGUs under the CPS are required to cease combusting coal. The SO_2 group annual average emission limits in 35 IAC 225.295(b) have not changed and are 0.15 lbs/mmBtu in 2017, 0.13 lbs/mmBtu in 2018, and 0.11 lbs/mmBtu in 2019 and beyond.

Second, Illinois has shown that the amendments to the CPS will, at worst, result in no change in emissions of NO_X and will likely result in reductions of this pollutant. The NO_X emission standard for both the CPS group average annual and ozone season emission rates remain unchanged at 0.11 lbs/mmBtu. The most conservative analysis, under which heat inputs at converted EGUs remain the same, would result in no change in NO_X emissions because the same EGUs will continue to be subject to the group wide average NO_X emission rate. However, Illinois believes it is likely that there will be a considerable decline in utilization of and heat input at the converted EGUs, which would likely result in NO_X emission reductions because the group wide average limit is on a lbs/mmBtu basis. *See* Section 3.4 of the TSD.

Illinois has further illustrated that there should be no change in NO_X emissions by referring to the ''Technical Support Document for Best Available Retrofit Technology'' (BART TSD) that was included as Attachment 2 to Illinois' original Regional Haze SIP submittal. The BART TSD shows that only the group-wide average of 0.11 lbs/mmBTU was used to estimate future emissions for the Illinois regional haze SIP rules. While several EGUs have since been retired, and a number of them have converted to firing natural gas, the group-wide average continues to apply to all EGUs, and shows that the NO_X emission reductions will remain the same.

Third, while Illinois did not rely on emission reductions of PM from the EGU sector in its initial regional haze SIP submittal, it has shown that amendments to the CPS should result in an overall reduction in PM emissions. The amendments require Joliet 6, 7, and 8 (approximately 66 million mmBtu) and Will County 3 (approximately 16 million mmBtu) to permanently cease combusting coal. All of these EGUs were permitted to emit PM at a rate of 0.10 lbs/mmBtu. These units will either be shutting down or converting to natural gas combustion. The AP–42 emission factor for PM emissions from natural gas combustion is approximately 0.0075 lbs/mmBtu. This would result in a 92.5% reduction in PM emissions from the Joliet EGUs from their previous allowable emission rates when they are operating, and does not include any reductions from reduced operating time that Illinois anticipates will occur after conversion.

Fourth, Illinois has shown that the ''transfer'' of the exemption from complying with SO_2 control technology requirements to Will County 4 unit from Joliet 6 do not affect the regional Haze rules. Previously, 35 IAC 225.296(b) required Will County 4 to either permanently shut down or install FGD equipment to control SO_2 on or before December 31, 2018.[4] Illinois exempts Will County 4 from this requirement. However, Will County 4 remains subject to the 0.10 lbs/mmBtu PM emission rate, and the group wide SO_2 and NO_X emission standards under the CPS. Additionally, this transfer does not alter the emission standards for SO_2 and NO_X that were relied upon in approving Illinois' regional haze rules. The intent of the regional haze program is mitigation of visibility impairment at specified national parks and wilderness areas, known as ''Class I areas'' under the CAA. Illinois does not have any Class I areas within the state, the nearest being either in southwestern Missouri or northern Michigan. *See* 77 FR 3966, 3967 (January 12, 2012). The redistribution of emission reductions from Joliet 6 to Will County 4, particularly as accompanied by substantial emission reductions at other converted EGUs, should result in equal if not more reasonable progress toward achieving natural visibility conditions in Class I areas under Illinois' regional haze rules, given the net overall reduction in emissions.

Therefore, these revisions do not alter the EGU group-wide emission standards for SO_2 and NO_X that were relied upon in approving Illinois' regional haze rules. The only exception to this is the removal of non-coal fired EGUs from SO_2 emissions averaging, which should result in significant reductions of SO_2 emissions from the CPS group of EGUs.

2. The Revisions Do Not Interfere With Any Applicable CAA Requirement Under Section 110(l) of the CAA

Under Section 110(l) of the CAA, EPA shall not approve a SIP revision if it would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of the CAA) or any other applicable requirement of the CAA. The proposed SIP revisions would not interfere with any applicable CAA requirements based on technical analysis submitted by Illinois EPA.

Illinois made these revisions to aid in attainment planning efforts for the 2010 SO_2 NAAQS for the Lemont nonattainment area. *See* 78 FR 47191, 47192 (Aug. 5, 2013). As discussed above, Illinois has shown that the revisions will result in reduction of SO_2 and PM emissions, and no change or a reduction in NO_X emissions, which are the pollutants of concern. *See* TSD.

[4] The SO_2 emissions reductions from the cessation of coal combustion from Will County 3 and Joliet 6, 7, and 8 will occur at least two years earlier than any SO_2 emission reductions from the installation of FGD equipment on or before December 31, 2018 under the CPS.

Furthermore, the emission standards under the CPS, which are based on group averaging, remain unchanged, except that the averaging method for determining compliance with the SO_2 emission standard will become more stringent, because the averaging will exclude natural gas units.

Therefore, the proposed revisions to CPS in Part 225 are approvable under Section 110(l) because: (1) There are no proposed changes to any SIP emission limits, except to make the SO_2 limit more stringent; (2) the conversion of the EGUs from coal to natural gas will result in a significant decrease in emissions of SO_2, no increase in emissions of NO_X, and reductions in emissions of PM; and (3) the changes are consistent with Illinois' long-term strategy for making reasonable progress toward meeting the visibility goals of Section 169A of the CAA contained in the state's regional haze rules.

III. What action is EPA taking?

EPA is proposing to approve the revisions to the Illinois air pollution control rules at 35 IAC Part 225, specifically, sections 225.291, 225.292, 225.293, 225.295 (except for 225.295(a)(4)), and 225.296 (except for 225.296(d)) and 225.Appendix A. Illinois EPA submitted the revisions to Part 225 on June 23, 2016, and submitted supplemental information on January 9, 2017.

Illinois' final rule also included revisions to Parts 214 (Sulfur limitations) and 217 (Nitrogen oxide emissions), and other sections of the Part 225 rules. EPA is not taking any action on those revisions, and, as noted above, Illinois' addition of 35 IAC 225.295(a)(4).

IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference revisions to Title 35 of Illinois Administrative Code Rule Part 225—Control of Emissions from Large Combustion Sources, sections 225.291, 225.292, 225.293, 225.295 (except for 225.295(a)(4)), and 225.296 (except for 225.296(d)) and 225.Appendix A, effective December 7, 2015. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and/or at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 21, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–18502 Filed 8–30–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0343; FRL–9967–18–Region 5]

Air Plan Approval; Indiana; Infrastructure SIP Requirements for the 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a state implementation plan (SIP) submission from Indiana regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: Comments must be received on or before October 2, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0343 at *http://www.regulations.gov,* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment.

The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background of this SIP submission?
II. What guidance is EPA using to evaluate this SIP submission?
III. What is EPA's analysis of this SIP submission?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. What is the background of this SIP submission?

A. What state submission does this rulemaking address?

In this rulemaking, EPA is proposing to take action on a June 10, 2016, submission from the Indiana Department of Environmental Management (IDEM) intended to address all applicable infrastructure requirements for the 2012 $PM_{2.5}$ NAAQS. On December 28, 2016, IDEM supplemented this submittal with additional documentation intended to address the transport requirements of Section 110(a)(2)(D) for the 2012 $PM_{2.5}$ NAAQS; EPA will take action on this supplement in a separate rulemaking.

B. Why did the state make this SIP submission?

Under section 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2012 $PM_{2.5}$ NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for the NAAQS already meet those requirements.

EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ [1] National Ambient Air Quality Standards'' (2007 Guidance) and has issued additional guidance documents, the most recent on September 13, 2013, entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under CAA Sections 110(a)(1) and (2)'' (2013 Guidance). The SIP submission referenced in this rulemaking pertains to the applicable requirements of section 110(a)(1) and (2), and addresses the 2012 $PM_{2.5}$ NAAQS.

C. What is the scope of this rulemaking?

EPA is acting upon the SIP submission from Indiana that addresses the infrastructure requirements of CAA section 110(a)(1) and (2) for the 2012 $PM_{2.5}$ NAAQS. The requirement for states to make SIP submissions of this type arises out of CAA section 110(a)(1), which states that states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA section 110(a)(1) and (2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as SIP submissions that address the nonattainment planning requirements of part D and the prevention of significant deterioration (PSD) requirements of part C of title I of the CAA, and ''regional haze SIP'' submissions required to address the visibility protection requirements of CAA section 169A.

In this rulemaking, EPA will not take action on three substantive areas of section 110(a)(2): (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction (''SSM'') at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP approved emissions limits with limited public notice or without requiring further approval by EPA, that may be contrary to the CAA; and, (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Instead, EPA has the authority to address each one of these substantive areas in separate rulemakings. A detailed history, interpretation, and rationale as they relate to infrastructure SIP requirements can be found in EPA's May 13, 2014, proposed rule entitled, ''Infrastructure SIP Requirements for the 2008 Lead NAAQS'' in the section, ''What is the scope of this rulemaking?'' (*see* 79 FR 27241 at 27242–27245).

II. What guidance is EPA using to evaluate this SIP submission?

EPA's guidance for this infrastructure SIP submission is embodied in the 2007 Guidance referenced above. Specifically, attachment A of the 2007 Guidance (Required Section 110 SIP Elements) identifies the statutory elements that states need to submit in order to satisfy the requirements for an infrastructure SIP submission. As discussed above, EPA issued additional guidance, the most recent being the 2013 Guidance that further clarifies aspects of infrastructure SIPs that are not NAAQS specific.

III. What is EPA's analysis of this SIP submission?

Pursuant to section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. On April 26, 2016, IDEM opened a 30-day comment period, and provided the opportunity for public hearing. No comments or requests for public hearing were received.

Indiana provided a detailed synopsis of how various components of its SIP meet each of the applicable

[1] $PM_{2.5}$ refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, oftentimes referred to as ''fine'' particles.

requirements in section 110(a)(2) for the 2012 $PM_{2.5}$ NAAQS, as applicable. The following review evaluates the state's submission.

A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[2] In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

IDEM's authority to adopt emissions standards and compliance schedules is found at Indiana Code (IC) 13–14–8, IC 13–17–3–4, IC 13–17–3–11, and IC 13–17–3–14. To maintain the 2012 $PM_{2.5}$ NAAQS, Indiana implements controls and emission limits for particulate matter in 326 Indiana Administrative Code (IAC) 6. Additionally, Indiana provides emission limits for Clark, Dearborn, Dubois, Howard, Marion, St. Joseph, Vanderburgh, Vigo, and Wayne counties at 326 IAC 6.5, and Lake County at 326 IAC 6.8. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2012 $PM_{2.5}$ NAAQS.

As previously noted, EPA is not proposing to approve or disapprove any existing state provisions or rules related to SSM or director's discretion in the context of section 110(a)(2)(A).

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to include provisions to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. This review of the annual monitoring plan includes EPA's determination that the state: (i) Monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and, (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

IDEM continues to operate an air monitoring network; EPA approved the state's 2017 Annual Air Monitoring Network Plan on October 31, 2016, including the plan for $PM_{2.5}$. IDEM enters air monitoring data into AQS, and the state provides EPA with prior notification when changes to its monitoring network or plan are being considered. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2012 $PM_{2.5}$ NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures; PSD

States are required to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet new source review (NSR) requirements under PSD and nonattainment NSR (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements.

The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers: (i) Enforcement of SIP measures; (ii) PSD provisions that explicitly identify oxides of nitrogen (NO_X) as a precursor to ozone in the PSD program; (iii) identification of precursors to $PM_{2.5}$ and the identification of $PM_{2.5}$ and PM_{10}[3] condensables in the PSD program; (iv) $PM_{2.5}$ increments in the PSD program; and, (v) greenhouse gas (GHG) permitting and the ''Tailoring Rule.''[4]

Sub-Element 1: Enforcement of SIP Measures

IDEM maintains an enforcement program to ensure compliance with SIP requirements. IC 13–14–1–12 provides the Commissioner with the authority to enforce rules ''consistent with the purpose of the air pollution control laws.'' Additionally, IC 13–14–2–7 and IC 13–17–3–3 provide the Commissioner with the authority to assess civil penalties and obtain compliance with any applicable rule a board has adopted in order to enforce air pollution control laws. Lastly, IC 13–14–10–2 allows for an emergency restraining order that prevents any person from causing, or introducing contaminants, that cause or contribute to air pollution. EPA proposes that Indiana has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: PSD Provisions That Explicitly Identify NO_X as a Precursor to Ozone in the PSD Program

EPA's ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline'' (Phase 2 Rule) was published on November 29, 2005 (*see* 70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO_X as a precursor to ozone (70 FR 71612 at 71679, 71699–71700). This requirement was codified in 40 CFR 51.166.[5]

The Phase 2 Rule required that states submit SIP revisions incorporating the requirements of the rule, including these specific NO_X as a precursor to ozone provisions, by June 15, 2007 (*see* 70 FR 71612 at 71683, November 29, 2005).

EPA approved revisions to Indiana's PSD SIP reflecting these requirements on July 2, 2014 (*see* 79 FR 37646, July 2, 2014), and therefore proposes that Indiana has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 3: Identification of Precursors to $PM_{2.5}$ and the Identification of $PM_{2.5}$ and PM_{10} Condensables in the PSD Program

On May 16, 2008 (*see* 73 FR 28321), EPA issued the Final Rule on the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (2008 NSR Rule). The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct $PM_{2.5}$ and other pollutants that contribute to secondary

[2] See, *e.g.,* EPA's final rule on ''National Ambient Air Quality Standards for Lead.'' 73 FR 66964 at 67034.

[3] PM_{10} refers to particles with an aerodynamic diameter of less than or equal to 10 micrometers.

[4] In EPA's April 28, 2011, proposed rulemaking for infrastructure SIPS for the 1997 ozone and $PM_{2.5}$ NAAQS, we stated that each state's PSD program must meet applicable requirements for evaluation of all regulated NSR pollutants in PSD permits (*see* 76 FR 23757 at 23760). This view was reiterated in EPA's August 2, 2012, proposed rulemaking for infrastructure SIPs for the 2006 $PM_{2.5}$ NAAQS (*see* 77 FR 45992 at 45998). In other words, if a state lacks provisions needed to adequately address NO_X as a precursor to ozone, $PM_{2.5}$ precursors, $PM_{2.5}$ and PM_{10} condensables, $PM_{2.5}$ increments, or the Federal GHG permitting thresholds, the provisions of section 110(a)(2)(C) requiring a suitable PSD permitting program must be considered not to be met irrespective of the NAAQS that triggered the requirement to submit an infrastructure SIP, including the 2012 $PM_{2.5}$ NAAQS.

[5] Similar changes were codified in 40 CFR 52.21.

$PM_{2.5}$ formation. One of these requirements is for NSR permits to address pollutants responsible for the secondary formation of $PM_{2.5}$, otherwise known as precursors. In the 2008 rule, EPA identified precursors to $PM_{2.5}$ for the PSD program to be SO_2 and NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The 2008 NSR Rule also specifies that volatile organic compounds (VOCs) are not considered to be precursors to $PM_{2.5}$ in the PSD program unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of VOCs in an area are significant contributors to that area's ambient $PM_{2.5}$ concentrations.

The explicit references to SO_2, NO_X, and VOCs as they pertain to secondary $PM_{2.5}$ formation are codified at 40 CFR 51.166(b)(49)(i)(*b*) and 40 CFR 52.21(b)(50)(i)(*b*). As part of identifying pollutants that are precursors to $PM_{2.5}$, the 2008 NSR Rule also required states to revise the definition of ''significant'' as it relates to a net emissions increase or the potential of a source to emit pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i) define ''significant'' for $PM_{2.5}$ to mean the following emissions rates: 10 tpy of direct $PM_{2.5}$; 40 tpy of SO_2; and 40 tpy of NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (*see* 73 FR 28321 at 28341, May 16, 2008).[6]

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as condensables, in $PM_{2.5}$ and PM_{10} emission limits in NSR permits. Instead, EPA determined that states had to account for $PM_{2.5}$ and PM_{10} condensables for applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits beginning on or after January 1, 2011. This requirement is codified in 40 CFR 51.166(b)(49)(i)(*a*) and 40 CFR 52.21(b)(50)(i)(*a*). Revisions to states' PSD programs incorporating the inclusion of condensables were required be submitted to EPA by May 16, 2011 (*see* 73 FR 28321 at 28341, May 16, 2008).

EPA approved revisions to Indiana's PSD SIP reflecting these requirements on July 2, 2014 (*see* 79 FR 37646), and therefore proposes that Indiana has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 4: $PM_{2.5}$ Increments in the PSD Program

On October 20, 2010, EPA issued the final rule on the ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (2010 NSR Rule). This rule established several components for making PSD permitting determinations for $PM_{2.5}$, including a system of ''increments'' which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c), and are included in the table below.

TABLE 1—$PM_{2.5}$ INCREMENTS ESTABLISHED BY THE 2010 NSR RULE IN MICROGRAMS PER CUBIC METER

	Annual arithmetic mean	24-Hour max
Class I	1	2
Class II	4	9
Class III	8	18

The 2010 NSR Rule also established a new ''major source baseline date'' for $PM_{2.5}$ as October 20, 2010, and a new trigger date for $PM_{2.5}$ as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(*c*) and (b)(14)(ii)(*c*), and 40 CFR 52.21(b)(14)(i)(*c*) and (b)(14)(ii)(*c*). Lastly, the 2010 NSR Rule revised the definition of ''baseline area'' to include a level of significance of 0.3 micrograms per cubic meter, annual average, for $PM_{2.5}$. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i).

On July 12, 2012, and supplemented on December 12, 2012, IDEM submitted revisions intended to address the increments established by the 2010 NSR Rule for incorporation into the SIP, as well as the revised major source baseline date, trigger date, and baseline area level of significance for $PM_{2.5}$. IDEM also requested that these revisions satisfy any applicable infrastructure SIP requirements related to PSD. Specifically, revisions to 326 IAC 2–2–6(b) contain the Federal increments for $PM_{2.5}$, 326 IAC 2–2–1(ee)(3) contains the new major source baseline date for $PM_{2.5}$ of October 20, 2010, 326 IAC 2–2–1(gg)(1)(C) contains the new trigger date for $PM_{2.5}$ of October 20, 2011, and 326 IAC 2–2–1(f)(1) contains the new baseline area level of significance for $PM_{2.5}$. It should be noted that Indiana's submitted revisions explicitly include only the $PM_{2.5}$ increments as they apply to Class II areas, and not the $PM_{2.5}$ increments as they apply to Class I or Class III areas. However, Indiana's requested revisions specify that if areas in the state are classified as Class I or III in the future, it would require that, pursuant to 40 CFR 52.21, those PSD increments be adhered to.

On August 11, 2014 (79 FR 46709), EPA finalized approval of the applicable infrastructure SIP PSD revisions; therefore, we are proposing that Indiana has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 5: GHG Permitting and the ''Tailoring Rule''

With respect to the requirements of section 110(a)(2)(C) as well as section 110(a)(2)(J), EPA interprets the CAA to

[6] EPA notes that on January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir.), held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM_{10} nonattainment areas (Title I, Part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1 (*Natural Resources Defense Council* v. *EPA,* No. 08–1250). As the subpart 4 provisions apply only to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated by the 2008 NSR rule in order to comply with the court's decision. Accordingly, EPA's approval of Indiana's infrastructure SIP as to elements (C), (D)(i)(II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the court's opinion. The Court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 implementation rule also does not affect EPA's action on the present infrastructure action. EPA interprets the CAA to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due three years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subpart 2 through 5 under part D, extending as far as 10 years following designations for some elements.

require each state to make an infrastructure SIP submission for a new or revised NAAQS that demonstrates that the state has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of element D(i)(II) may also be satisfied by demonstrating the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants. Indiana has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including GHGs.

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group* v. *Environmental Protection Agency,* 134 S.Ct. 2427. The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT).

In order to act consistently with its understanding of the Court's decision pending further judicial action to effectuate the decision, the EPA is not continuing to apply EPA regulations that would require that SIPs include permitting requirements that the Supreme Court found impermissible. Specifically, EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (*e.g.,* 40 CFR 51.166(b)(48)(v)).

EPA anticipates a need to revise Federal PSD rules in light of the Supreme Court opinion. In addition, EPA anticipates that many states will revise their existing SIP-approved PSD programs in light of the Supreme Court's decision. The timing and content of subsequent EPA actions with respect to the EPA regulations and state PSD program approvals are expected to be informed by additional legal process before the United States Court of Appeals for the District of Columbia Circuit. At this juncture, EPA is not expecting states to have revised their PSD programs for purposes of infrastructure SIP submissions and is only evaluating such submissions to assure that the state's program correctly addresses GHGs consistent with the Supreme Court's decision.

At present, EPA is proposing that Indiana's SIP is sufficient to satisfy elements C, D(i)(II), and J with respect to GHGs because the PSD permitting program previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT. Although the approved Indiana PSD permitting program may currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not render the infrastructure SIP submission inadequate to satisfy elements C, (D)(i)(II), and J. The SIP contains the necessary PSD requirements at this time, and the application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of sources of GHGs that EPA does not consider necessary at this time in light of the Supreme Court decision.

For the purposes of the 2012 $PM_{2.5}$ NAAQS infrastructure SIPs, EPA reiterates that NSR reform regulations are not within the scope of these actions. Therefore, we are not taking action on existing NSR reform regulations for Indiana. EPA approved Indiana's minor NSR program on October 7, 1994 (*see* 59 FR 51108), and most recently approved revisions to the program on March 16, 2015 (*see* 80 FR 13493). IDEM and EPA rely on the minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the 2012 $PM_{2.5}$ NAAQS.

Certain sub-elements in this section overlap with elements of section 110(a)(2)(D)(i), section 110(a)(2)(E) and section 110(a)(2)(J). These links will be discussed in the appropriate areas below.

D. Section 110(a)(2)(D)—Interstate Transport

Section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state. EPA is not taking action on this infrastructure element in regards to the 2012 $PM_{2.5}$ NAAQS and will do so in a future rulemaking.

Section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality or to protect visibility in another state.

EPA notes that Indiana's satisfaction of the applicable infrastructure SIP PSD requirements for the 2012 $PM_{2.5}$ NAAQS has been detailed in the section addressing section 110(a)(2)(C). EPA further notes that the proposed actions in that section related to PSD are consistent with the proposed actions related to PSD for section 110(a)(2)(D)(i)(II), and they are reiterated below.

EPA has previously approved revisions to Indiana's SIP that meet certain requirements obligated by the Phase 2 Rule and the 2008 NSR Rule. These revisions included provisions that: Explicitly identify NO_X as a precursor to ozone, explicitly identify SO_2 and NO_X as precursors to $PM_{2.5}$, and regulate condensable $PM_{2.5}$ and PM_{10} in applicability determinations and establishing emissions limits. EPA has also previously approved revisions to Indiana's SIP that incorporate the $PM_{2.5}$ increments and the associated implementation regulations including the major source baseline date, trigger date, and level of significance for $PM_{2.5}$ per the 2010 NSR Rule. EPA is proposing that Indiana's SIP contains provisions that adequately address the 2012 $PM_{2.5}$ NAAQS.

States also have an obligation to ensure that sources located in nonattainment areas do not interfere with a neighboring state's PSD program. One way that this requirement can be satisfied is through an NNSR program consistent with the CAA that addresses any pollutants for which there is a designated nonattainment area within the state.

Indiana's EPA-approved NNSR regulations are contained in 326 IAC 2–3, and are consistent with 40 CFR 51.165. Therefore, EPA proposes that Indiana has met all of the applicable PSD requirements for the 2012 $PM_{2.5}$ NAAQS related to section 110(a)(2)(D)(i)(II).

With regard to the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2013 Memo states that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or an approved SIP addressing regional haze. In this rulemaking, EPA is not proposing to approve or disapprove Indiana's satisfaction of the

visibility protection requirements of section 110(a)(2)(D)(i)(II) for the 2012 $PM_{2.5}$ NAAQS. Instead, EPA will evaluate Indiana's compliance with these requirements in a separate rulemaking.[7]

Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 126 and section 115 (relating to interstate and international pollution abatement, respectively).

Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources. A lack of such a requirement in state rules would be grounds for disapproval of this element. Indiana has provisions in its EPA-approved PSD program in 326 IAC 2–2–15 (b)(3) requiring new or modified sources to notify neighboring states of potential negative air quality impacts, and has referenced this program as having adequate provisions to meet the requirements of section 126(a). EPA is proposing that Indiana has met the infrastructure SIP requirements of section 126(a) with respect to the 2012 $PM_{2.5}$ NAAQS. Indiana does not have any obligations under any other subsection of section 126, nor does it have any pending obligations under section 115. EPA, therefore, is proposing that Indiana has met all applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii).

E. Section 110(a)(2)(E)—Adequate Resources

This section requires each state to provide for adequate personnel, funding, and legal authority under state law to carry out its SIP, and related issues. Section 110(a)(2)(E)(ii) also requires each state to comply with the requirements respecting state boards under section 128.

Sub-Element 1: Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues

Indiana's biennial budget and its environmental performance partnership agreement with EPA document funding and personnel levels for IDEM every two years. As discussed in earlier sections, IC 13–14–1–12 provides the Commissioner of IDEM with the authority to enforce air pollution control laws. Furthermore, IC 13–14–8, IC 13–17–3–11, and IC 13–17–3–14 contain the authority for IDEM to adopt air emissions standards and compliance schedules. EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: State Board Requirements Under Section 128 of the CAA

Section 110(a)(2)(E) also requires each SIP to contain provisions that comply with the state board requirements of section 128 of the CAA. That provision contains two explicit requirements: (i) That any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (ii) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

On November 29, 2012, IDEM submitted rules regarding its Environmental Rules Board at IC 13–13–8 for incorporation into the SIP, pursuant to section 128 of the CAA. On December 12, 2012, IDEM provided a supplemental submission clarifying that the Environmental Rules Board established by IC 13–13–8, which has the authority to adopt environmental regulations under IC 4–22–2 and IC 13–14–9, does not have the authority to approve enforcement orders or permitting actions as outlined in section 128(a)(1) of the CAA. Therefore, section 128(a)(1) of the CAA is not applicable in Indiana.

Under section 128(a)(2), the head of the executive agency with the power to approve enforcement orders or permits must adequately disclose any potential conflicts of interest. IC 13–13–8–11 ''Disclosure of conflicts of interest'' contains provisions that adequately satisfy the requirements of section 128(a)(2). This section requires that each member of the board shall fully disclose any potential conflicts of interest relating to permits or enforcement orders. IC 13–13–8–4 defines the membership of the board, and the commissioner (of IDEM) or his/her designee is explicitly included as a member of the board. Therefore, when evaluated together in the context of section 128(a)(2), the commissioner (of IDEM) or his/her designee must fully disclose any potential conflicts of interest relating to permits or enforcement orders under the CAA. EPA concludes that IDEM's submission as it relates to the state board requirements under section 128 is consistent with applicable CAA requirements. EPA approved these rules on December 6, 2013 (78 FR 77599). Therefore, EPA is proposing that IDEM has satisfied the applicable infrastructure SIP requirements for this section of 110(a)(2)(E) for the 2012 $PM_{2.5}$ NAAQS.

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to this chapter. Lastly, the reports shall be available at reasonable times for public inspection.

The Indiana state rules for monitoring requirements are contained in 326 IAC 3. Additional emissions reporting requirements are found in 326 IAC 2–6. Emission reports are available upon request by EPA or other interested parties. EPA proposes that Indiana has satisfied the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2012 $PM_{2.5}$ NAAQS.

G. Section 110(a)(2)(G)—Emergency Powers

This section requires that a plan provide for authority that is analogous to what is provided in section 303 of the CAA, and adequate contingency plans to implement such authority. The 2013 Memo states that infrastructure SIP submissions should specify authority, rested in an appropriate official, to restrain any source from causing or contributing to emissions which present an imminent and substantial endangerment to public health or welfare, or the environment.

326 IAC 1–5 establishes air pollution episode levels based on concentrations of criteria pollutants. This rule requires that emergency reduction plans be submitted to the Commissioner of IDEM by major air pollution sources, and

[7] Indiana does have an approved regional haze plan for non-EGUs. Indiana's plan for EGUs relied on the Clean Air Interstate Rule that has been recently superseded by the Cross State Air Pollution Rule to which Indiana EGU sources are also subject.

these plans must include actions that will be taken when each episode level is declared, to reduce or eliminate emissions of the appropriate air pollutants. Similarly, under IC 13–17–4, Indiana also has the ability to declare an air pollution emergency and order all persons causing or contributing to the conditions warranting the air pollution emergency to immediately reduce or discontinue emission of air contaminants. EPA proposes that Indiana has met the applicable infrastructure SIP requirements of section 110(a)(2)(G) related to authority to implement measures to restrain sources from causing or contributing to emissions which present an imminent and substantial endangerment to public health or welfare, or the environment with respect to the 2012 $PM_{2.5}$ NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or to an EPA finding that the SIP is substantially inadequate.

IDEM continues to update and implement needed revisions to Indiana's SIP as necessary to meet ambient air quality standards. As discussed in previous sections, authority to adopt emissions standards and compliance schedules is found at IC 13–4–8, IC 13–17–3–4, IC 13–17–3–11, and IC 13–17–3–14. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2012 $PM_{2.5}$ NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas.

EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA takes action on part D attainment plans through separate processes.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; PSD; Visibility Protection

The evaluation of the submissions from Indiana with respect to the requirements of section 110(a)(2)(J) are described below.

Sub-Element 1: Consultation With Government Officials

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements.

IDEM actively participates in the regional planning efforts that include state rule developers, representatives from the FLMs, and other affected stakeholders. Additionally, Indiana is an active member of the Lake Michigan Air Director's Consortium, which consists of collaboration with the States of Illinois, Wisconsin, Michigan, Minnesota, and Ohio. EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: Public Notification

Section 110(a)(2)(J) also requires states to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances.

IDEM monitors air quality data daily, and reports the air quality index to the interested public and media, if necessary. IDEM also participates in and submits information to EPA's AIRNOW program, and maintains SmogWatch, which is an informational tool created by IDEM to share air quality forecasts for each day. SmogWatch provides daily information about ground-level ozone, particulate matter concentration levels, health information, and monitoring data for seven regions in Indiana. In addition, IDEM maintains a publicly available Web site that allows interested members of the community and other stakeholders to view current monitoring data summaries, including those for $PM_{2.5}$.[8] EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 3: PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. IDEM's PSD program in the context of infrastructure SIPs has already been discussed above in the paragraphs addressing section 110(a)(2)(C) and 110(a)(2)(D)(i)(II), and EPA notes that the proposed actions for those sections are consistent with the proposed actions for this portion of section 110(a)(2)(J).

Therefore, EPA proposes that Indiana has met all of the infrastructure SIP requirements for PSD associated with section 110(a)(2)(D)(J) for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 4: Visibility Protection

With regard to the applicable requirements for visibility protection, states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2012 $PM_{2.5}$ NAAQS.

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

SIPs must provide for performing air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.

IDEM continues to review the potential impact of all major and some minor new and modified sources using computer models. Indiana's rules regarding air quality modeling are contained in 326 IAC 2–2–4, 326 IAC 2–2–5, 326 IAC 2–2–6, and 326 IAC 2–2–7. These modeling data are available to EPA or other interested parties upon request. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2012 $PM_{2.5}$ NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

This section requires SIPs to mandate each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit.

IDEM implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62969); revisions to the program were approved on August 13, 2002 (67 FR 52615). In addition to the title V permit program, IDEM's EPA-approved PSD program, specifically contained in 326 IAC 2–1.1–07, contains the provisions, requirements, and structures associated with the costs for reviewing, approving, implementing, and enforcing various types of permits. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(L) with respect to the 2012 $PM_{2.5}$ NAAQS.

[8] See *http://www.in.gov/idem/airquality/2489.htm.*

M. Section 110(a)(2)(M)—Consultation/Participation by Affected Local Entities

States must consult with and allow participation from local political subdivisions affected by the SIP.

Any IDEM rulemaking procedure contained in IC 13–14–9 requires public participation in the SIP development process. In addition, IDEM ensures that the public hearing requirements of 40 CFR 51.102 are satisfied during the SIP development process. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2012 $PM_{2.5}$ NAAQS.

IV. What action is EPA taking?

EPA is proposing to approve most elements of a submission from Indiana certifying that its current SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2012 $PM_{2.5}$ NAAQS. EPA's proposed actions for the state's satisfaction of infrastructure SIP requirements, by element of section 110(a)(2) are contained in the table below.

Element	2012 $PM_{2.5}$
(A)—Emission limits and other control measures	A
(B)—Ambient air quality monitoring/data system	A
(C)1—Program for enforcement of control measures	A
(C)2—PSD	A
(D)1—I Prong 1: Interstate transport—significant contribution	NA
(D)2—I Prong 2: Interstate transport—interfere with maintenance	NA
(D)3—II Prong 3: Interstate transport—prevention of significant deterioration	A
(D)4—II Prong 4: Interstate transport—protect visibility	NA
(D)5—Interstate and international pollution abatement	A
(E)1—Adequate resources	A
(E)2—State board requirements	A
(F)—Stationary source monitoring system	A
(G)—Emergency power	A
(H)—Future SIP revisions	A
(I)—Nonattainment planning requirements of part D	*
(J)1—Consultation with government officials	A
(J)2—Public notification	A
(J)3—PSD	A
(J)4—Visibility protection	*
(K)—Air quality modeling/data	A
(L)—Permitting fees	A
(M)—Consultation and participation by affected local entities	A

In the above table, the key is as follows:

A	Approve.
NA	No Action/Separate Rulemaking.
*	Not germane to infrastructure SIPs.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 21, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–18503 Filed 8–30–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0154; FRL–9967–20–Region 9]

Approval of Nevada Air Plan Revisions, Washoe Oxygenated Fuels Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Nevada State Implementation Plan (SIP). This revision concerns emissions of carbon monoxide (CO) from passenger vehicles. We are proposing to approve the suspension of a local rule that regulated these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by October 2, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2017–0154 at *http://www.regulations.gov,* or via email to *Buss.Jeffrey@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, EPA Region IX, (415) 947–4152, *buss.jeffrey@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

Table of Contents

I. The State's Submittal
A. What rule did the State submit?
B. Are there other versions of this rule?
C. What is the purpose of the submitted rule revision?
II. The EPA's Evaluation and Action
A. How is the EPA evaluating the rule suspension?
B. Does the rule suspension meet the evaluation criteria?
C. Public Comment and Proposed Action
III. Incorporation by Reference
IV. Statutory and Executive Order Reviews

I. The State's Submittal

A. What rule did the State submit?

On March 28, 2014, the Nevada Department of Environmental Protection (NDEP) submitted Washoe County District Board of Health (WCDBOH) Regulations Governing Air Quality Management Section 040.095, ''Oxygen Content of Motor Vehicle Fuel,'' as amended by the WCDBOH on December 24, 2013. On September 28, 2014, the submittal for Section 040.095 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

The WCDBOH has adopted other versions of Section 040.095, most recently the version adopted September 22, 2005 and submitted to the EPA on November 4, 2005. We approved this version of the rule into the SIP on July 3, 2008 (73 FR 38124). While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. What is the purpose of the submitted rule revision?

The submitted revision to Section 040.095 suspends all requirements of the SIP-approved rule, which implements Washoe County's oxygenated fuel program. This program requires gasoline sold in Washoe County to contain 2.7 percent oxygenate by weight between October 1 and January 31 as a means of reducing CO emissions. The Truckee Meadows area of Washoe County has historically been designated nonattainment for the CO National Ambient Air Quality Standard (NAAQS or ''Standard''),[1] and the WCDBOH adopted Section 040.095 to comply with the requirements of CAA section 211(m), which requires states to adopt an oxygenated gasoline program for any area out of attainment for the CO NAAQS. The EPA redesignated Truckee Meadows as attainment for the CO NAAQS in 2008, and the area's CO levels are now substantially below the Standard. 73 FR 38124 (July 3, 2008). The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule suspension?

As a general matter, under CAA section 110(l), the EPA may approve relaxations or suspensions of control measures so long as doing so would not interfere with attainment or maintenance of any NAAQS or otherwise conflict with applicable CAA requirements. The EPA has evaluated the revision to Section 040.095 to determine whether suspension of the Washoe County's oxygenated fuel program would interfere with NAAQS attainment or maintenance or conflict with other CAA requirements.

B. Does the rule suspension meet the evaluation criteria?

We believe this SIP submittal is consistent with CAA 110(l) requirements regarding restrictions on relaxation of SIP measures. The WCDBOH's analysis of future CO emissions in Washoe County demonstrates continued compliance with the CO NAAQS as a result of other state measures, such as the motor vehicle inspection and maintenance program, and federal measures such as the Renewable Fuels Standard. The TSD has more information on our evaluation.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule suspension because we believe it fulfills all relevant requirements. We will accept comments from the public on this proposal until October 2, 2017. If we take final action to approve the submitted rule suspension, our final action will incorporate this revision into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the WCDBOH rule described in this notice. The EPA has made, and will continue to make, this material available electronically through *www.regulations.gov* and in hard copy at U.S. Environmental Protection Agency Region IX (Air–4), 75 Hawthorne Street, San Francisco, CA, 94105–3901.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under 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

[1] Truckee Meadows was first designated nonattainment in 1978. *See* 43 FR 8962, 9013 (March 3, 1978). Truckee Meadows was classified as moderate nonattainment under the 1990 CAA amendments. *See* 56 FR 56694, 56798 (November 6, 1991).

affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 14, 2017.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2017–18499 Filed 8–30–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 170109046–7749–01]

RIN 0648–XF156

Pacific Island Pelagic Fisheries; 2017 U.S. Territorial Longline Bigeye Tuna Catch Limits

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes a 2017 limit of 2,000 metric tons (mt) of longline-caught bigeye tuna for each U.S. Pacific territory (American Samoa, Guam, and the Northern Mariana Islands). NMFS would allow each territory to allocate up to 1,000 mt each year to U.S. longline fishing vessels in a specified fishing agreement that meets established criteria. As an accountability measure, NMFS would monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna, including catches made under a specified fishing agreement. The proposed catch limits and accountability measures would support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: NMFS must receive comments by September 15, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0004, by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0004,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808–725–5176.

SUPPLEMENTARY INFORMATION: NMFS proposes to specify a 2017 catch limit of 2,000 mt of longline-caught bigeye tuna for each U.S. Pacific territory. NMFS would also authorize each U.S. Pacific territory to allocate up to 1,000 mt of its 2,000-mt bigeye tuna limit to U.S. longline fishing vessels that are permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). Those vessels must be identified in a specified fishing agreement with the applicable territory. The Western Pacific Fishery Management Council recommended these specifications. The proposed catch and allocation limits and accountability measures are identical to those that NMFS specified for each U.S. territory in 2016 (81 FR 63145, September 14, 2016).

NMFS will monitor catches of longline-caught bigeye tuna by the longline fisheries of each U.S Pacific territory, including catches made by U.S. longline vessels operating under specified fishing agreements. The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, will follow the procedures in 50 CFR 665.819 (Territorial catch and fishing effort limits). When NMFS projects that a territorial catch or allocation limit will be reached, NMFS would, as an accountability measure, prohibit the catch and retention of longline-caught bigeye tuna by vessels in the applicable territory (if the territorial catch limit is projected to be reached), and/or vessels in a specified fishing agreement (if the allocation limit is projected to be reached).

On March 20, 2017, in *Territory of American Samoa* v. *NMFS, et al.* (16–cv–95, D. Haw), a Federal judge vacated and set aside a NMFS rule that amended the American Samoa Large Vessel Prohibited Area (LVPA) for eligible longliners. The Court held that the action was inconsistent with the ''other applicable law'' provision of the Magnuson-Stevens Act by not considering the protection and preservation of cultural fishing rights in American Samoa under the Instruments of Cession. The Instruments of Cession do not specifically mention cultural

fishing rights, and the Court's decision, although recognizing the need to protect those rights, does not define them. The Council is currently reevaluating the LVPA rule, including options to define cultural fishing rights in American Samoa that are subject to preservation and protection. NMFS specifically invites public comments on this proposed action that address the impact of this proposed rule on cultural fishing rights in American Samoa.

NMFS will consider public comments on the proposed action and will announce the final specifications in the **Federal Register**. NMFS must receive any comments by the date provided in the **DATES** heading. NMFS may not consider any comments not postmarked or otherwise transmitted by that date. Regardless of the final specifications, all other management measures will continue to apply in the longline fishery.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator for Fisheries has determined that this proposed specification is consistent with the applicable FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that these proposed specifications, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the proposed action, why it is being considered, and the legal basis for it are contained in the preamble to this proposed specification.

In this action, NMFS proposes a 2017 limit of 2,000 metric tons (mt) of longline-caught bigeye tuna for each U.S. Pacific territory (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI)). Without this catch limit, these U.S territories would not be subject to a limit because, as Participating Territories to the Western and Central Pacific Fisheries Commission (WCPFC), they do not have a bigeye tuna limit under international measures adopted by the WCPFC. The proposed action would also allow each territory to allocate up to 1,000 mt of its limit to U.S. longline fishing vessels in a specified fishing agreement. Each agreement must meet the established criteria in 50 CFR 665.819. As an accountability measure, NMFS would monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna by vessels in the applicable U.S. territory (if the territorial catch limit is projected to be reached), or by vessels operating under the applicable specified fishing agreement (if the allocation limit is projected to be reached). Payments under the specified fishing agreements support fisheries development in the U.S. Pacific territories and the long-term sustainability of fishery resources of the U.S. Pacific Islands.

This proposed action would directly apply to longline vessels permitted Federally under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (Pelagic FEP). Specifically, this action would apply to Hawaii longline limited entry, American Samoa longline limited entry, and Western Pacific general longline permit holders.

As of July 2017, there were 145 vessels with Hawaii permits (out of 164 total) and 44 with American Samoa permits (out of 60 total). There were no Western Pacific general longline permits as of July 2017.

Based on logbook data collected by NMFS, Hawaii longline vessels landed approximately 33,401,000 lb of fish valued at $101,582,000 in 2016. With 142 vessels making either a deep- or shallow-set trip in 2016, the ex-vessel value of pelagic fish caught by Hawaii-based longline fisheries averaged about $715,336 per vessel in 2016. Fishery performance data for the American Samoa longline fishery in 2016 is not yet available. In 2015, American Samoa-based longline vessels landed approximately 4,756,195 lb of fish, of which 4,662,869 lb was sold, valued at $4,994,004. Albacore made up the largest proportion of longline commercial landings at 3,475,497 lb. With 18 active longline vessels in 2015, the ex-vessel value of pelagic fish caught by American Samoa-based longline fisheries averaged about $277,445 per vessel in 2015.

For Regulatory Flexibility Act purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 114111) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels permitted Federally under the Pelagic FEP are small entities, *i.e.,* they are engaged in the business of fish harvesting (NAICS 114111), are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of $11 million. Even though this proposed action would apply to a substantial number of vessels, the implementation of this action would not result in significant adverse economic impacts to individual vessels.

The Pelagic FEP established a process by which NMFS could specify catch and/or effort limits for pelagic fisheries in American Samoa, Guam and CNMI, regardless of whether the WCPFC adopts a limit for those entities or not. The Pelagic FEP also allows NMFS to authorize the government of each territory to allocate a portion of their catch and/or effort limits through territorial fishing agreements. Specifically, bigeye tuna landed by vessels included in a fishing agreement are attributed to the U.S territory to which the agreement applies, and not counted towards the U.S. bigeye tuna limit established by NMFS under a separate authority in 50 CFR 300, subpart O.

In accordance with Federal regulations at 50 CFR 300, subpart O, vessels that possess both an American Samoa and Hawaii longline permit are not subject to the U.S bigeye tuna limit. Therefore, these vessels may retain bigeye tuna and land fish in Hawaii after the date that NMFS projects the fishery would reach that limit. Further, catches of bigeye tuna made by such vessels are attributed to American Samoa, provided the fish was not caught in the EEZ around Hawaii. In 2016, all dual American Samoa/Hawaii longline permitted vessels were included in the fishing agreement with CNMI. Therefore, NMFS attributed bigeye catches by those vessels to the CNMI.

On August 4, 2017, NMFS established a 2017 bigeye tuna catch limit of 3,138 mt applicable to U.S. longline fisheries (82 FR 36341). The 2017 limit is about 12 percent lower than the 2016 limit. It accounts for the planned reduction of the U.S. limit from 3,554 mt in 2016 to 3,345 mt in 2017, and adds a further reduction for exceeding the 2016 limit by 207 mt. Based on preliminary logbook data, NMFS expects the fishery to reach this limit in early September 2017.

The proposed action would potentially benefit the Hawaii fishery by allowing participants to fish under specified fishing agreements with one or

more territories. This could enhance the ability of these vessels to extend fishing effort in the western and central Pacific Ocean after reaching the 2017 U.S. limit and provide more domestic bigeye tuna for markets in Hawaii and elsewhere. Providing an opportunity to land bigeye tuna in Hawaii in the last quarter of the year when market demand is high would result in positive economic benefits for fishery participants and net benefits to the Nation. Allowing participating territories to enter into specified fishing agreements under this action benefits the territories by providing funds for territorial fisheries development projects. Establishing a 2,000 mt longline limit for bigeye tuna catch where territories are not subject to WCPFC longline limits is not likely to adversely affect vessels based in the territories.

The historical catch of bigeye tuna by the American Samoa longline fleet has been less than 2,000 mt, even including the catch of vessels based in American Samoa, catch by dual permitted vessels that land their catch in Hawaii, and catch attributed to American Samoa from U.S. vessels under specified fishing agreements. No longline fishing has occurred in Guam or the CNMI since 2011.

Under the proposed action, longline fisheries managed under the Pelagic FEP are not expected to expand substantially nor change the manner in which they are currently conducted, (*i.e.,* area fished, number of vessels longline fishing, number of trips taken per year, number of hooks set per vessel during a trip, depth of hooks, or deployment techniques in setting longline gear), due to existing operational constraints in the fleet, the limited entry permit programs, and protected species mitigation requirements. The proposed rule does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small organizations or government jurisdictions. Furthermore, there would be little, if any, disproportionate adverse economic impacts from the proposed rule based on gear type or relative vessel size. The proposed rule also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities.

For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As such, an initial regulatory flexibility analysis is not required and none has been prepared.

This action is exempt from review under the procedures of E.O. 12866 because this action contains no implementing regulations.

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

Dated: August 25, 2017.

Chris Oliver,

Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 2017–18452 Filed 8–30–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 82, No. 168

Thursday, August 31, 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

Food Safety and Inspection Service

[Docket No. FSIS–2017–0029]

Notice of Request for Renewal of an Approved Information Collection (Accreditation of Laboratories, Transactions, and Exemptions)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request a renewal of the approved information collection regarding accreditation of laboratories, transactions, and exemptions. The approval for this information collection will expire on January 31, 2018. There are no changes to the existing information collection.

DATES: Submit comments on or before October 30, 2017.

ADDRESSES: FSIS invites interested persons to submit comments on this information collection. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Docket Clerk, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2017–0029. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6065, South Building, Washington, DC 20250; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Accreditation of Laboratories, Transactions, and Exemptions.

OMB Number: 0583–0082.

Expiration Date of Approval: 1/31/2018.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes provide that FSIS is to protect the public by verifying that meat, poultry, and egg products are safe, wholesome, not adulterated, and properly labeled and packaged.

FSIS is requesting a renewal of the approved information collection regarding accreditation of laboratories, transactions, and exemptions. The approval for this information collection will expire on January 31, 2018. There are no changes to the existing information collection.

FSIS requires meat and poultry establishments and import facilities to apply for a grant of inspection before receiving Federal inspection (9 CFR 304.1 & 381.17). FSIS also requires plants that wish to receive voluntary inspection to apply for service (9 CFR 350.5, 351.4, 352.3, & 362.3). Establishments that wish to export or import product must also submit certain documents to the Agency.

The FMIA (21 U.S.C. 642), the PPIA (21 U.S.C. 460(b)), and the EPIA (21 U.S.C. 1040) require certain parties to keep records that fully and correctly disclose all transactions involved in their businesses related to relevant animal carcasses and parts and egg products.

FSIS requires accredited non-Federal analytical laboratories to maintain certain paperwork and records (9 CFR 439.20 & 590.580). The Agency uses this collected information to ensure that meat and poultry establishments and egg products plants provide safe, wholesome, and not adulterated product, and that non-Federal laboratories act in accordance with FSIS regulations.

In addition, FSIS also requires establishments to keep records to ensure that meat and poultry products exempted from Agency inspection are not commingled with inspected meat and poultry products (9 CFR 303.1(b)(3) & 381.175), and that firms qualifying for a retail store exemption who have violated the provisions of that exemption are no longer in violation (9 CFR 303.1(d)(3) & 381.10(d)(3)).

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of .034 hours per response.

Respondents: Official meat and poultry establishments, official egg plants, and foreign establishments.

Estimated No. of Respondents: 27,743.

Estimated No. of Annual Responses per Respondent: 122.

Estimated Total Annual Burden on Respondents: 114,339.4 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence SW., 6065, South Building, Washington, DC 20250; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's

estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

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

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

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email: *Mail:* U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, *Fax:* (202) 690–7442, *Email: program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on: August 28, 2017.

Paul Kiecker,

Acting Administrator.

[FR Doc. 2017–18490 Filed 8–30–17; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2017–0031]

Notice of Request for Revision of an Approved Information Collection (Salmonella Initiative Program)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request a revision of the approved information collection related to the Salmonella Initiative Program (SIP). The approval for this information collection will expire on January 31, 2018. Based on a decrease in the number of SIP approvals that occurred as a result of the implementation of the New Poultry Inspection System, FSIS has decreased its total annual burden estimate by 45,511 hours.

DATES: Submit comments on or before October 30, 2017.

ADDRESSES: FSIS invites interested persons to submit comments on this information collection. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Docket Clerk, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2017–0031. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6065, South Building, Washington, DC 20250; (202)720–5627.

SUPPLEMENTARY INFORMATION:

Title: Salmonella Initiative Program.

OMB Number: 0583–0154.

Expiration Date of Approval: 01/31/2018.

Type of Request: Revision of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). FSIS protects the public by verifying that meat, poultry, and egg products are safe, wholesome, not adulterated, and correctly labeled and packaged.

The Salmonella Initiative Program (SIP) offers incentives to meat and poultry slaughter establishments to

control Salmonella in their operations. SIP does this by granting waivers of certain regulatory requirements with the condition that establishments test for Salmonella, Campylobacter (if applicable), and generic Escherichia coli or other indicator organisms and share all sample results with FSIS. SIP benefits public health because it encourages establishments to test for microbial pathogens, which is a key feature of effective process control.

In return for meeting the conditions of SIP, the Agency grants establishments appropriate waivers of certain regulatory requirements, based upon establishment proposals and documentation, under FSIS regulations at 9 CFR 303.1(h) and 381.3(b). These regulations specifically provide for the Administrator to waive for limited periods any provisions of the regulations to permit experimentation so that new procedures, equipment, or processing techniques may be tested to facilitate definite improvements. Establishments participating in SIP agree to the conditions of SIP regarding pathogen testing and sharing of test result data with FSIS.

FSIS is requesting a revision of the approved information collection related to SIP. The approval for this information collection will expire on January 31, 2018. Based on a decrease in the number of SIP approvals that occurred as a result of the implementation of the New Poultry Inspection System, FSIS has decreased its total annual burden estimate by 45,511 hours.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of .69 hours per response.

Respondents: Official slaughter establishments that are under a waiver.

Estimated Number of Respondents: 37.

Estimated Number of Annual Responses per Respondent: 325.

Estimated Total Annual Burden on Respondents: 8,265 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence SW., 6065, South Building, Washington, DC 20250; (202)720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

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

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

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email: Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, Fax: (202) 690–7442, Email: *program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on: August 28, 2017.

Paul Kiecker,

Acting Administrator.

[FR Doc. 2017–18497 Filed 8–30–17; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2017–0030]

Notice of Request for Revision of an Approved Information Collection (Public Health Information System)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request a renewal of the approved information collection regarding its Web-based Public Health Information System (PHIS). There are no changes to the existing information collection except a revision to remove the FSIS Form 9080–4, Product List, because FSIS no longer uses it. This will result in a reduction in burden of 41,667 hours. The approval for this information collection will expire on January 31, 2018.

DATES: Submit comments on or before October 30, 2017.

ADDRESSES: FSIS invites interested persons to submit comments on this information collection. Comments may be submitted by one of the following methods:

• *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.

• *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Docket Clerk, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.

• *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2017–0030. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6065, South Building, Washington, DC 20250; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Public Health Information System (PHIS).

OMB Number: 0583–0153.

Expiration Date of Approval: 01/31/2018.

Type of Request: Revision of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). FSIS protects the public by verifying that meat, poultry, and egg products are safe, wholesome, not adulterated, and correctly labeled and packaged.

FSIS is requesting a revision of the approved information collection regarding the Public Health Information System (PHIS). There are no changes to the existing information collection except a revision to remove the FSIS Form 9080–4, Product List, because FSIS no longer uses it. This will result in a reduction in burden of 41,667 hours. The approval for this information collection will expire on January 31, 2018.

FSIS uses a PHIS, a Web-based system that improves FSIS inspection operations and facilitates industry members' applications for inspection, export, and import of meat, poultry, and egg products. With PHIS, industry members are able to submit forms through a series of screens. Paper forms are also available to firms that do not wish to use PHIS.

To submit information through PHIS, firms' employees register for a USDA eAuthentication account with Level-2 access. An eAuthentication account enables individuals inside and outside of USDA to obtain user-identification accounts to access a wide range of USDA applications through the Internet. The Level-2 access provides users the ability to conduct official electronic business transactions. To register for a Level-2 eAuthentication account, the user needs to have access to the Internet and a valid email address. To learn more about eAuthentication and how to register for an account, visit *http://www.eauth.egov.usda.gov/.*

Consistent with its current procedures, FSIS continues to collect information within PHIS from firms regarding the application for inspection and the export and import of meat, poultry, and egg products. Firms may complete new forms (screen sets) in PHIS when exporting meat, poultry, and egg products (9 CFR 322.2, 381.107, and 590.200). FSIS is requesting the continued use of the following forms and collection of information for them through screen sets within PHIS.

A Transfer Certificate is submitted by exporters to FSIS when product is transferred from one establishment or plant to another facility before export.

A ''Split/Consolidations'' Certificate is submitted by exporters to indicate that an export shipment approved by FSIS for export is being split and sent to two separate destinations or that two or more FSIS-approved export shipments to the same country are being combined.

FSIS Form 9080–3, Establishment Application for Export, is completed by exporters to specify countries where they wish to export product (9 CFR 322.2 and 381.105). FSIS uses this information to track the export of product.

FSIS Form 9060–6, The Application for Export Certificate, provides FSIS with data necessary to facilitate the export of product (9 CFR 322.2 and 381.105).

FSIS Form 9010–1, Application for the Return of Exported Products to the United States, is used by the exporter of product that is exported and then returned to this country, to notify FSIS and to arrange for the product's entry (9 CFR 327.17, 381.209, and 590.965).

The following three forms are available in PHIS but not as a series of screens. FSIS is requesting the continued use of these forms.

FSIS Form 5200–2, Application for Federal Inspection, is submitted by all official establishments in order to receive a grant of inspection (9 CFR 304.1 and 381.17).

FSIS Form 5200–6, Application for Approval of Voluntary Inspection, is submitted by all establishments that want voluntary inspection, (9 CFR 350.5, 351.4, 352.3, and 362.3).

FSIS Form 5200–15, Hours of Operation, is submitted when an establishment wants to notify the Agency of a change in its hours of operation (9 CFR 307.4, 381.37, 590.124, and 592.96).

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take the average number of respondents an average of 1 hour per year.

Respondents: Official establishments, official plants, importers, and exporters.

Estimated Average Number of Respondents: 1,147.

Estimated Average Number of Annual Responses per Respondent: 88.

Estimated Total Annual Burden on Respondents: 103,814 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence SW., 6065, South Building, Washington, DC 20250; (202)720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance

the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology.

Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

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

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

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How To File a Complaint of Discrimination

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Send your completed complaint form or letter to USDA by mail, fax, or email: *Mail:* U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, Fax: (202) 690–7442. Email: *program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on: August 28, 2017.

Paul Kiecker,

Acting Administrator.

[FR Doc. 2017–18491 Filed 8–30–17; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the United States Department of Agriculture's Rural Utilities Service (RUS), invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by October 30, 2017.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Acting Director, Program Development and Regulatory Analysis, USDA Rural Utilities Service, 1400 Independence Avenue SW., STOP 1522, Room 5164–S, Washington, DC 20250–1522. Telephone: (202) 690–4492, Facsimile: (202) 720–8435. Email: *Thomas.Dickson@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an existing information collection that the Agency is submitting to OMB for extension. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) The accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on 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 may be sent to: Thomas P. Dickson, Acting Director, Program Development and Regulatory Analysis, USDA Rural Utilities Service, 1400 Independence Avenue SW., Room 5164–S, STOP 1522, Washington, DC 20250–1522. Telephone: (202) 690–4492, Facsimile: (202) 720–8435, email: *Thomas.Dickson@wdc.usda.gov.*

Title: Accounting Requirements for Electric and Telecommunications Borrowers.

OMB Control Number: 0572–0003.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Utilities Service is a credit agency of the USDA which makes direct and guaranteed loans to finance electric and telecommunications facilities in rural areas. Accounting requirements that are unique to RUS borrowers are contained in 7 CFR parts 1767 and 1770, and establish basic accounting requirements for the recording of financial information that must be available to the management, investors, and lenders of any business enterprise. This collection is primarily a recordkeeping requirement, although the Agency is requiring borrowers to establish an index of records. The hours of burden to maintain this index are directly related to the portions of the accounting system that are unique to the Agency. There are many important financial considerations for retention and preservation of accounting records. One of the most important considerations to RUS is that documentation be available so that the borrower's records may be audited for proper disbursements of funds.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 hours per response.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents and Recordkeepers: 650.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Hours per Recordkeeper: 24 hours.

Estimated Total Annual Burden on Respondents: 2,100 hours.

Estimated Total Annual Burden on Recordkeepers: 26,250 hours.

Copies of this information collection can be obtained from Rebecca Hunt, Management Analyst, Program Development and Regulatory Analysis, at (202) 205–3660; FAX: (202) 720–8435.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: August 11, 2017.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2017–18454 Filed 8–30–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission briefing and business meeting.

DATES: Friday, September 8, 2017, at 10:00 a.m. EST.

ADDRESSES: National Place Building, 1331 Pennsylvania Ave. NW., 11th Floor, Suite 1150, Washington, DC 20245 (Entrance on F Street NW.).

FOR FURTHER INFORMATION CONTACT: Brian Walch, phone: (202) 376–8371; TTY: (202) 376–8116; email: *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: This business meeting is open to the public. There will also be a call-in line for individuals who desire to listen to the presentations: 800–310–7032; Conference ID 799–7226.

Persons with disabilities who need accommodation should contact Pamela Dunston at (202) 376–8105 or at *signlanguage@usccr.gov* at least three business days before the scheduled date of the meeting.

Meeting Agenda

I. Approval of Agenda
II. Business Meeting
A. *Discussion and Vote on Report:* Working for Inclusion: Time for Congress to Enact Federal Legislation to Redress Workplace Discrimination Against Lesbian, Gay, Bisexual, and Transgender Americans
B. *Discussion and Vote on Report:* Public Education Funding Inequality in an Era of Increasing Concentration of Poverty and Resegregation
C. State Advisory Committees
- Vote on appointments to the New Jersey State Advisory Committee
- Vote on appointments to the North Dakota State Advisory Committee
- Vote on appointments to the Rhode Island State Advisory Committee

D. Management and Operations
- Staff Director's Report

E. [To begin at 11:00 a.m. EST] Presentations on President Eisenhower's Civil Rights Legacy and the Creation of the U.S. Commission on Civil Rights by:
a. Dawn Hammatt, Director of the Eisenhower Presidential Library
b. David A Nichols, Author of ''A Matter of Justice, Eisenhower and the Beginning of the Civil Rights Movement''
III. Adjourn Meeting

Dated: August 29, 2017.

Brian Walch,

Director, Communications and Public Engagement.

[FR Doc. 2017–18629 Filed 8–29–17; 4:15 pm]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Mexico Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

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 planning meeting of the New Mexico Advisory Committee to the Commission will convene at 3:00 p.m. (MDT) on Thursday, October 18, 2017, via teleconference. The purpose of the meeting is to discuss the progress made on the report on elder abuse and next steps.

DATES: Thursday, October 18, 2017, at 3:00 p.m. (MDT).

ADDRESSES: To be held via teleconference:

Conference Call Toll-Free Number: 1–877–857–6163, Conference ID: 2621087.

TDD: Dial Federal Relay Service 1–800–977–8339 and give the operator the above conference call number and conference ID.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, *ebohor@usccr.gov,* 303–866–1040.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion by dialing the following Conference Call Toll-Free Number: 1–877–857–6163; Conference ID: 2621087. Please be advised that before being placed into the conference call, the operator will ask callers to provide their names, their organizational affiliations (if any), and an email address (if available) prior to placing callers into the conference room. 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 phone number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS) at 1–800–977–8339 and provide the FRS operator with the Conference Call Toll-Free Number: 1–877–857–6163, Conference ID: 2621087. Members of the public are invited to submit written comments; the comments must be received in the regional office by Monday, November 20, 2017. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1050, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://database.faca.gov/committee/meetings.aspx?cid=264* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda

- Welcome and Roll-Call
  Sandra Rodriguez, Chair, New Mexico Advisory Committee

- Discussion of Progress of Report on Elder Abuse
- Next Steps
- Open Comment

Dated: August 25, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–18460 Filed 8–30–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Montana Advisory Committee

AGENCY: 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 planning meeting of the Montana Advisory Committee to the Commission will convene at 11:00 a.m. (MDT) on Thursday, September 21, 2017, via teleconference. The purpose of the meeting is to conduct orientation for the newly appointed Committee and discuss current civil rights issues of importance in the state.

DATES: Thursday, September 21, 2017, at 11:00 a.m. (MDT).

ADDRESSES: To be held via teleconference:

Conference Call Toll-Free Number: 1–888–857–6930, Conference ID: 3629826.

TDD: Dial Federal Relay Service 1–800–977–8339 and give the operator the above conference call number and conference ID.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, *ebohor@usccr.gov,* 303–866–1040.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion by dialing the following Conference Call Toll-Free Number: 1–888–857–6930; Conference ID: 3629826. Please be advised that before being placed into the conference call, the operator will ask callers to provide their names, their organizational affiliations (if any), and an email address (if available) prior to placing callers into the conference room. 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 phone number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS) at 1–800–977–8339 and provide the FRS operator with the Conference Call Toll-Free Number: 1–888–857–6930, Conference ID: 3629826. Members of the public are invited to submit written comments; the comments must be received in the regional office by Monday, October 23, 2017. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1050, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://facadatabase.gov/committee/meetings.aspx?cid=259* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda

- Welcome and Roll-call Gwen Kircher, Chair, Montana Advisory Committee
- Introductions
- Orientation and brief update on Commission and Region Activities
- Discuss current civil rights issues of importance in the state
- Next Steps
- Open Comment

Dated: August 25, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–18461 Filed 8–30–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee 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 that the Tennessee (State) Advisory Committee will hold a meeting on Wednesday, October 4, 2017 to review, discuss and approve the hearing transcript on civil asset forfeiture.

DATES: The meeting will be held on Wednesday, October 4, 2017 12:30 p.m. EST.

ADDRESSES: The meeting will be by teleconference. Toll-free call-in number: 888–715–1402, conference ID: 6317429.

FOR FURTHER INFORMATION CONTACT: Jeff Hinton, DFO, at *jhinton@usccr.gov* or 404–562–7006.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–715–1402, conference ID: 6317429. 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 also entitled to submit written comments; the comments must be received in the regional office by September 29, 2017. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to Regional Director, Jeffrey Hinton at *jhinton@usccr.gov.* Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Tennessee Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Southern Regional Office at the above email or street address.

Agenda

Welcome and Call to Order
Diane DiIanni, Tennessee SAC Chairman

Jeff Hinton, Regional Director
Regional Update—Jeff Hinton
New Business: Review, discuss and approve the hearing transcript on civil asset forfeiture Diane DiIanni, Tennessee SAC Chairman/Staff/Advisory Committee
Public Participation
Adjournment

Dated: August 28, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–18492 Filed 8–30–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Renewal of the Bureau of Economic Analysis Advisory Committee Charter

AGENCY: Bureau of Economic Analysis (BEA), U.S. Department of Commerce.

ACTION: Notice of the renewal of the BEA Advisory Committee Charter.

SUMMARY: Please note that the U.S. Department of Commerce renewed the Charter for the Bureau of Economic Analysis Advisory Committee on June 9, 2017. It has been determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Dondi Staunton, Designated Federal Official, Communications Division, Bureau of Economic Analysis, 4600 Silver Hill Road, Suitland, MD 20233; Telephone (301) 278–9798; Email *dondi.staunton@bea.gov.*

SUPPLEMENTARY INFORMATION: The Committee was established September 2, 1999, to advise the Director of BEA on matters related to the development and improvement of BEA's national, industry, international, and regional economic accounts.

Dated: August 10, 2017.

Brian Moyer,

Director, Bureau of Economic Analysis.

[FR Doc. 2017–18518 Filed 8–30–17; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2017–OS–0041]

Proposed Collection; Comment Request

AGENCY: Washington Headquarters Service (WHS), Facilities Services Directorate (FSD), Enterprise Performance and IT Management Directorate (EPITMD), DoD.

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* and as part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, Washington Headquarters Service (WHS), Facilities Services Directorate (FSD), Enterprise Performance and IT Management Directorate (EPITMD) announces a proposed generic information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by October 30, 2017.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Washington Headquarters Service (WHS), Facilities Services Directorate (FSD), Enterprise Performance and IT Management Directorate (EPITMD), ATTN: Mr. Jeremy Consolvo, 1550 Crystal Drive, Arlington, VA 22202, or call the WHS/FSD/EPITMD at (703) 697–2224.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Fast Track Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery—the Interactive Customer Evaluation (ICE) System; 0704–0420.

Needs and Uses: 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 non-controversial 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 non-response 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.

Current Actions: Processing Revision as Generic.

Type of Review: Revision.

Affected Public: Individuals and Households.

Estimated Number of Annual Respondents: 152,622.

Average Expected Annual Number of Activities: 16,970.

Below we provide projected average estimates for the next three years:

Average Number of Respondents per Activitiy: 9.

Responses per Respondent: 1.

Annual Responses: 152,622.

Average Burden per Response: 3 minutes.

Annual Burden Hours: 7,631.

Frequency: On occasion.

This system was developed to improve the timeliness, quality, and quantity of feedback given by customers to DoD service providers. Customers are able to access an appropriate comment card in ICE by going directly to the ICE Web site and search for the service provider or through a link provided by a service provider. They are able to quickly fill out a short online questionnaire related to customer satisfaction. Customer responses are sent to the appropriate facility and/or service manager. The data resides in the ICE system. This timely feedback allows service providers to quickly improve the quality of their services, thereby enhancing the quality of life for all members of the defense community. It also gives community commanders, deputy commanders in chiefs, and others an opportunity to review, assess, and improve current service quality.

Dated: August 28, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–18487 Filed 8–30–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–123–001.

Applicants: American Transmission Company LLC; Wisconsin Power and Light Company.

Description: Notification of Material Change to Transaction of American Transmission Company LLC, et al.

Filed Date: 8/22/17.

Accession Number: 20170822–5165.

Comments Due: 5 p.m. ET 9/12/17.

Docket Numbers: EC17–164–000.

Applicants: Goshen Phase II LLC, Rockland Wind Farm LLC, Wolverine Creek Goshen Interconnection LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities, Request for Confidential Treatment, and Request for Expedited Consideration of Goshen Phase II LLC, et. al.

Filed Date: 8/24/17.

Accession Number: 20170824–5128.

Comments Due: 5 p.m. ET 9/14/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3145–009; ER10–1728–009; ER10–1800–010; ER10–3116–009; ER10–3120–009; ER10–3128–009; ER10–3136–009; ER11–2036–009; ER11–2701–011; ER13–1544–006; ER15–1579–007; ER15–1582–008; ER15–1914–009; ER15–2679–005; ER15–2680–005; ER15–760–008; ER15–762–009; ER16–468–003; ER16–474–004; ER16–890–004; ER16–930–003; ER16–1255–003; ER16–1738–003; ER16–1901–003; ER16–1955–003; ER16–1956–003; ER16–1973–003; ER16–2201–002; ER16–2224–002; ER16–2541–002; ER16–2578–003; ER17–306–002; ER17–544–002.

Applicants: AES Alamitos, LLC, AES Energy Storage, LLC, AES Laurel Mountain, LLC, AES Ohio Generation, LLC, AES Redondo Beach, L.L.C., Indianapolis Power & Light Company, 65HK 8me LLC, The Dayton Power and Light Company, AES ES Tait, LLC, AES Huntington Beach LLC, Mountain View Power Partners, LLC, Mountain View Power Partners IV, LLC, 67RK 8me LLC, 87RL 8me LLC, Antelope Big Sky Ranch LLC, Antelope DSR 1, LLC, Antelope DSR 2, LLC, Beacon Solar 1, LLC, Beacon Solar 3, LLC, Beacon Solar 4, LLC, Elevation Solar C LLC, Central Antelope Dry Ranch C LLC, FTS Master Tenant 1, LLC, Latigo Wind Park, LLC, North Lancaster Ranch LLC, Pioneer Wind Park I LLC, Sierra Solar Greenworks LLC, Sandstone Solar LLC, Solverde 1, LLC, Western Antelope Blue Sky Ranch B LLC, Western Antelope Blue Sky Ranch A LLC, Summer Solar LLC, Western Antelope Dry Ranch LLC.

Description: Notice of Non-Material Change in Status of AES MBR Affiliates.

Filed Date: 8/24/17.

Accession Number: 20170824–5144.

Comments Due: 5 p.m. ET 9/14/17.

Docket Numbers: ER17–544–001.

Applicants: Beacon Solar 1, LLC.

Description: Compliance filing: Beacon Solar 1, LLC Tariff Compliance Filing to be effective 8/26/2017.

Filed Date: 8/25/17.

Accession Number: 20170825–5056.
Comments Due: 5 p.m. ET 9/15/17.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR17–7–000.
Applicants: North American Electric Reliability Corporation.
Description: Request of North American Electric Reliability Corporation for Acceptance of 2018 Business Plans and Budgets of NERC and the Regional Entities and for Approval of Assessments to Fund Budgets.
Filed Date: 8/23/17.
Accession Number: 20170823–5109.
Comments Due: 5 p.m. ET 9/13/17.

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: August 25, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–18465 Filed 8–30–17; 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: ER16–2360–004.
Applicants: Great Western Wind Energy, LLC.
Description: Notice of Non-Material Change in Status of Great Western Wind Energy, LLC.
Filed Date: 8/24/17.
Accession Number: 20170824–5079.
Comments Due: 5 p.m. ET 9/14/17.

Docket Numbers: ER17–2351–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Queue Position AC1–117, Original Service Agreement No. 4768 to be effective 8/4/2017.
Filed Date: 8/23/17.
Accession Number: 20170823–5083.
Comments Due: 5 p.m. ET 9/13/17.

Docket Numbers: ER17–2352–000.
Applicants: Deseret Generation & Transmission Co-operative, Inc.
Description: § 205(d) Rate Filing: 2017 RIA Annual Update to be effective 7/1/2017.
Filed Date: 8/23/17.
Accession Number: 20170823–5084.
Comments Due: 5 p.m. ET 9/13/17.

Docket Numbers: ER17–2353–000.
Applicants: Otter Tail Power Company.
Description: § 205(d) Rate Filing: Notice of Cancellation of Rate Schedule No. 110 Transmission Service Agreement to be effective 10/22/2017.
Filed Date: 8/23/17.
Accession Number: 20170823–5112.
Comments Due: 5 p.m. ET 9/13/17.

Docket Numbers: ER17–2354–000.
Applicants: Virginia Electric and Power Company.
Description: Notice of Cancellation of Generator Interconnection and Operating Agreement of Virginia Electric and Power Company.
Filed Date: 8/24/17.
Accession Number: 20170824–5055.
Comments Due: 5 p.m. ET 9/14/17.

Docket Numbers: ER17–2355–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: Teichos Energy (Wildwood Solar) SGIA Filing to be effective 8/16/2017.
Filed Date: 8/24/17.
Accession Number: 20170824–5059.
Comments Due: 5 p.m. ET 9/14/17.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH17–4–002.
Applicants: Starwood Energy Group Global, L.L.C.
Description: Starwood Energy Group Global, L.L.C. submits FERC 65–B Material Change in Facts of Waiver Notification.
Filed Date: 8/24/17.
Accession Number: 20170824–5083.
Comments Due: 5 p.m. ET 9/14/17.

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: August 24, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–18459 Filed 8–30–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–165–000.
Applicants: ALLETE, Inc., United Taconite, LLC.
Description: Application for Approval Pursuant to Section 203 of the Federal Power Act of ALLETE, Inc., et. al.
Filed Date: 8/25/17.
Accession Number: 20170825–5208.
Comments Due: 5 p.m. ET 9/15/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–1850–007; ER11–1846–007; ER11–1847–007; ER11–1848–007; ER11–2598–010; ER13–1192–004.
Applicants: Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Marketing Inc., Direct Energy Services, LLC, Gateway Energy Services Corporation, Energy America, LLC.
Description: Supplement to June 28, 2017 Northeast Region Triennial Report of the Direct Energy Sellers.
Filed Date: 8/25/17.
Accession Number: 20170825–5181.
Comments Due: 5 p.m. ET 9/15/17.

Docket Numbers: ER17–2356–000.
Applicants: Alabama Power Company.
Description: Compliance filing: Filing to Correct OATT Language Errata (ER08–129–000) in Attachment M in the eTariff Viewer to be effective 1/1/2011.
Filed Date: 8/25/17.
Accession Number: 20170825–5116.
Comments Due: 5 p.m. ET 9/15/17.

Docket Numbers: ER17–2357–000.
Applicants: Duke Energy Indiana, LLC.
Description: § 205(d) Rate Filing: Letter Agreement with WVPA—RS 271 to be effective 8/28/2017.
Filed Date: 8/25/17.
Accession Number: 20170825–5134.
Comments Due: 5 p.m. ET 9/15/17.

Docket Numbers: ER17–2358–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Amended GIA Edom Hills Project 1, LLC—Edom Hills Wind Park WDT1153QFC to be effective 8/25/2017.
Filed Date: 8/25/17.
Accession Number: 20170825–5138.
Comments Due: 5 p.m. ET 9/15/17.

Docket Numbers: ER17–2359–000.
Applicants: Midcontinent Independent System Operator, Inc., MDU Resources Group, Inc.
Description: § 205(d) Rate Filing: 2017–08–25_Rate Schedule 50—MDU-Basin Revenue Sharing Agreement to be effective 5/1/2017.
Filed Date: 8/25/17.
Accession Number: 20170825–5153.
Comments Due: 5 p.m. ET 9/15/17.

Docket Numbers: ER17–2360–000.
Applicants: Appalachian Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: APCo submits 10th Revised ILDSA No. 1252, FA and LA with BRPA to be effective 9/17/2010.
Filed Date: 8/25/17.
Accession Number: 20170825–5179.
Comments Due: 5 p.m. ET 9/15/17.

Docket Numbers: ER17–2361–000.
Applicants: ITC Midwest LLC.
Description: § 205(d) Rate Filing: Filing of a Master JUA for Distribution Underbuild with MiEnergy to be effective 10/24/2017.
Filed Date: 8/25/17.
Accession Number: 20170825–5184.
Comments Due: 5 p.m. ET 9/15/17.

Docket Numbers: ER17–2362–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Revisions to OATT Sch. 12—Appdx A re: RTEP Projects Approved by Board July 2017 to be effective 11/23/2017.
Filed Date: 8/25/17.
Accession Number: 20170825–5228.
Comments Due: 5 p.m. ET 9/15/17.

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: August 25, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–18466 Filed 8–30–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–2318–000]

Cuyama Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Cuyama Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 14, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: August 25, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–18467 Filed 8–30–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Georgia-Alabama-South Carolina System

AGENCY: Southeastern Power Administration, (Southeastern), Department of Energy.

ACTION: Notice of interim approval.

SUMMARY: The Deputy Secretary, Department of Energy, confirmed and approved, on an interim basis new rate schedules SOCO–1–F, SOCO–2–F, SOCO–3–F, SOCO–4–F, ALA–1–O, Duke–1–F, Duke–2–F, Duke–3–F, Duke–4–F, Santee–1–F, Santee–2–F, Santee–3–F, Santee–4–F, SCE&G–1–F, SCE&G–2–F, SCE&G–3–F, SCE&G–4–F, Pump–1–A, and Replacement–1. These rate schedules are applicable to Southeastern power sold to existing preference customers in Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina. The rate schedules are approved on an interim basis through September 30, 2022, and are subject to confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis.

DATES: Approval of rates on an interim basis is effective October 1, 2017.

FOR FURTHER INFORMATION CONTACT: Virgil Hobbs, Assistant Administrator, Finance and Marketing, Southeastern Power Administration, Department of

Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–4578, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission, by Order issued April 2, 2013, in Docket No. EF12–4–000 (143 FERC ¶ 62,002), confirmed and approved Wholesale Power Rate Schedules SOCO–1–E, SOCO–2–E, SOCO–3–E, SOCO–4–E, ALA–1–N, MISS–1–N, Duke–1–E, Duke–2–E, Duke–3–E, Duke–4–E, Santee–1–E, Santee–2–E, Santee–3–E, Santee–4–E, SCE&G–1–E, SCE&G–2–E, SCE&G–3–E, SCE&G–4–E, Pump–1–A, Pump–2, Replacement–1, and Regulation–1 through September 30, 2017. This order replaces these rate schedules on an interim basis, subject to final approval by FERC.

Dated: August 24, 2017

Dan R. Brouillette,

Deputy Secretary.

DEPARTMENT OF ENERGY

DEPUTY SECRETARY

In the Matter of:

Southeastern Power Administration
Georgia-Alabama-South Carolina
System Power Rates
Rate Order No. SEPA–62

Order Confirming and Approving Power Rates on an Interim Basis

Pursuant to Sections 302(a) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (Southeastern), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated to Southeastern's Administrator the authority to develop power and transmission rates, to the Deputy Secretary of Energy the authority to confirm, approve, and place in effect such rates on interim basis, and to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place into effect on a final basis or to disapprove rates developed by the Administrator under the delegation. This rate order is issued by the Deputy Secretary pursuant to said delegation.

Background

Power from the Georgia-Alabama-South Carolina Projects is presently sold under Wholesale Power Rate Schedules SOCO–1–E, SOCO–2–E, SOCO–3–E, SOCO–4–E, ALA–1–N, MISS–1–N, Duke–1–E, Duke–2–E, Duke–3–E, Duke–4–E, Santee–1–E, Santee–2–E, Santee–3–E, Santee–4–E, SCE&G–1–E, SCE&G–2–E, SCE&G–3–E, SCE&G–4–E, Pump–1–A, Pump–2, Replacement–1, and Regulation–1. These rate schedules were approved by the FERC in docket number EF12–4–000 on April 2, 2013, for a period ending September 30, 2017 (143 FERC ¶ 62,002).

Public Notice and Comment

Notice of a proposed rate adjustment was published in the **Federal Register** April 6, 2017 (82 FR 16828). The notice advised interested parties of a proposed reduction in the capacity rates of about fifteen percent (15%). The proposed reduction in the revenue requirement was about nine percent (9%). The energy rate was to be extended. A public information and comment forum was held May 9, 2017, in Savannah, Georgia. Written comments were accepted through July 5, 2017. Comments were received from two parties at the forum. Written comments were received from two interested parties.

Comments received from interested parties are summarized below. Southeastern's response follows each comment.

Comment 1: If the previous historical rainfall patterns return during the term of the proposed rates, SEPA will likely over-recover. We encourage SEPA to carefully monitor the results each year to ensure [the conservative average energy estimate] does not lead to sustained over-recovery.

Response 1: Southeastern uses the best available estimates to prepare a rate study used to support a rate adjustment. Southeastern updates the repayment studies for each of its four systems annually to monitor repayment. By law, Southeastern is required to recover the cost of each system. The term of the rate schedules can be no more than five years. Should the annual update of the repayment study reveal cost recovery is unduly accelerated, Southeastern may file a rate adjustment before the term of these rate schedules expire.

Comment 2: The SeFPC notes that the implementation of newly adopted Water Control Manuals (''WCM'') for the Apalachicola-Chattahoochee-Flint (''ACF'') and Alabama-Coosa-Tallapoosa (''ACT'') river basins may change operations of the projects that provide the power marketed to customers of the GA-AL-SC system of projects. Because of potential changes in the operation of the U. S. Army Corps of Engineers (''Corps'') projects, we encourage SEPA to consider whether the anticipated changes associated with the WCMs will have an impact on the underlying revenue requirement.

Response 2: Southeastern will monitor the potential changes in the operations of the projects to ensure the changes do not impact cost recovery without appropriate adjustments to protect power customers.

Comment 3: The SeFPC encourages SEPA to continue conversations with Corps representatives to review cost allocations for the multi-purpose projects which support the generation of power.

Response 3: Southeastern continues to discuss with Corps representatives appropriate review of cost allocations for Southeastern's projects.

Comment 4: The SeFPC asks SEPA to re-examine the cost associated with the installation of a secant wall at the Walter F. George project. SEPA's jurisdiction and authority to set rates for hydropower customers should be exercised as appropriate to ensure that the rates are as low as possible consistent with sound business principles.

Response 4: Southeastern is continuing discussions with the Corps regarding whether repairs to the Walter F. George secant wall qualify as modifications due to changes in state-of-the-art design or construction criteria deemed necessary for safety purposes. If so, the costs associated with the secant wall would be limited as to recovery under the Dam Safety Act. 33 U.S.C. 467n. The General Accounting Office (GAO) has recommended that the Corps clarify policy guidance on the usage of the state-of-the-art provision. (See *https://www.gao.gov/products/GAO-16-106.*) Southeastern is awaiting the Corps' response to the GAO report before taking further action.

Discussion

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in July 2017, for the Georgia-Alabama-South Carolina System shows that with the proposed rates, all system power costs are paid within the appropriate repayment period required by existing law and DOE Order RA 6120.2. The Administrator of Southeastern Power Administration has certified that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Environmental Impact

Southeastern has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded that, because the

adjusted rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates, including studies and other supporting materials and transcripts of the public information and comment forum, is available for public review in the offices of Southeastern Power Administration, 1166 Athens Tech Road, Elberton, Georgia 30635, and in the Power Marketing Liaison Office, James Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

ORDER

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 2017, attached Wholesale Power Rate Schedules SOCO–1–F, SOCO–2–F, SOCO–3–F, SOCO–4–F, ALA–1–O, Duke–1–F, Duke–2–F, Duke–3–F, Duke–4–F, Santee–1–F, Santee–2–F, Santee–3–F, Santee–4–F, SCE&G–1–F, SCE&G–2–F, SCE&G–3–F, SCE&G–4–F, Pump–1–A, and Replacement–1. The Rate Schedules shall remain in effect on an interim basis through September 30, 2022, unless such period is extended or until the FERC confirms and approves the schedules or substitute Rate Schedules on a final basis.

Dated: August 24, 1017

Dan R. Brouillette
Deputy Secretary

Wholesale Power Rate Schedule SOCO–1–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, and Florida to whom power may be transmitted and scheduled pursuant to contracts between the Government and Southern Company Services, Incorporated (hereinafter called the Company) and the Customer. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$3.54 per kilowatt of total contract demand per month estimated as of March 2017 is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the transmission and distribution charges paid by the Government. The transmission charges are governed by and subject to refund based upon the determination in proceedings before FERC involving the Company's Open Access Transmission Tariff (OATT). The distribution charges may be modified by FERC pursuant to application by the Company under Section 205 of the Federal Power Act or the Government under Section 206 of the Federal Power Act.

Proceedings before FERC involving the OATT or the distribution charges may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Scheduling, System Control and Dispatch Service:

$0.0806 per kilowatt of total contract demand per month.

Reactive Supply and Voltage Control from Generation Sources Service:

$0.11 per kilowatt of total contract demand per month.

Regulation and Frequency Response Service:

$0.0483 per kilowatt of total contract demand per month.

Transmission, System Control, Reactive, and Regulation Services

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' OATT.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. As of March 2017, applicable energy losses are as follows:

Transmission facilities 2.2%
Sub-transmission 2.0%
Distribution Substations 0.9%
Distribution Lines 2.25%

These losses shall be effective until modified by FERC, pursuant to application by Southern Companies under Section 205 of the Federal Power Act or SEPA under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule SOCO–2–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any

one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, and Florida to whom power may be transmitted pursuant to contracts between the Government and Southern Company Services, Incorporated (hereinafter called the Company) and the Customer. The Customer is responsible for providing a scheduling arrangement with the Government. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$3.54 per kilowatt of total contract demand per estimated as of March 2017 is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the transmission and distribution charges paid by the Government. The transmission charges are governed by and subject to refund based upon the determination in proceedings before FERC involving the Company's Open Access Transmission Tariff (OATT). The distribution charges may be modified by FERC pursuant to application by the Company under Section 205 of the Federal Power Act or the Government under Section 206 of the Federal Power Act.

Proceedings before FERC involving the OATT or the distribution charges may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Reactive Supply and Voltage Control from Generation Sources Service:

$0.11 per kilowatt of total contract demand per month.

Transmission, System Control, Reactive, and Regulation Services:

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' OATT.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. As of March 2017, applicable energy losses are as follows:

Transmission facilities	2.2%
Sub-Transmission	2.0%
Distribution Substations	0.9%
Distribution Lines	2.25%

These losses shall be effective until modified by FERC, pursuant to application by Southern Companies under Section 205 of the Federal Power Act or SEPA under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule SOCO–3–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, and Florida to whom power may be scheduled pursuant to contracts between the Government and Southern Company Services, Incorporated (hereinafter called the Company) and the Customer. The Customer is responsible for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects (hereinafter referred to collectively as the Projects) and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal

Energy Regulatory Commission of the Company's rate.

Scheduling, System Control and Dispatch Service:

$0.0806 per kilowatt of total contract demand per month.

Regulation and Frequency Response Service:

$0.0483 per kilowatt of total contract demand per month.

Transmission, System Control, Reactive, and Regulation Services

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' Open Access Transmission Tariff.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses).

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule SOCO–4–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, and Florida served through the transmission facilities of Southern Company Services, Inc. (hereinafter called the Company) or the Georgia Integrated Transmission System. The Customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects (hereinafter referred to collectively as the Projects) and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Transmission, System Control, Reactive, and Regulation Services

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' Open Access Transmission Tariff.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract that the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses).

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule ALA–1–O

Availability:

This rate schedule shall be available to the PowerSouth Energy Cooperative (hereinafter called the Cooperative).

Applicability:

This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters, and Richard B. Russell Projects and sold under contract between the Cooperative and the Government. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at the Walter F. George, West Point, and Robert F. Henry Projects.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Southern Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Transmission, System Control, Reactive, and Regulation Services

The charges for Transmission, System Control, Reactive, and Regulation Services shall be governed by and subject to refund based upon the determination in the proceeding involving Southern Companies' Open Access Transmission Tariff.

Energy to be Furnished by the Government:

The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Duke-1–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be transmitted and scheduled pursuant to contracts between the Government and Duke Energy Carolinas (hereinafter called the Company) and the Customer. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$1.32 per kilowatt of total contract demand per month is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the transmission and distribution charges paid by the Government. The transmission charges are governed by and subject to refund based upon the determination in proceedings before FERC involving the Company's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses of three per cent (3%) as of March 2017). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. These losses shall be effective until modified by FERC, pursuant to application by the Company under Section 205 of the Federal Power Act or SEPA under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Duke-2–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be transmitted pursuant to contracts between the Government and Duke Energy Carolinas (hereinafter called the Company) and the Customer. The Customer is responsible for providing a scheduling arrangement with the Government. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$1.32 per kilowatt of total contract demand per month is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the transmission and distribution charges paid by the Government. The transmission charges are governed by and subject to refund based upon the determination in proceedings before FERC involving the Company's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses of three per cent (3%) as of March 2017). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. These losses shall be effective until modified by the Federal Energy Regulatory Commission, pursuant to application by the Company under Section 205 of the Federal Power Act or SEPA under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Duke–3–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be scheduled pursuant to contracts between the Government and Duke Energy Carolinas (hereinafter called the Company) and the Customer. The Customer is responsible for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Savannah River Projects.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses).

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Duke–4–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina served through the transmission facilities of Duke Energy Carolinas (hereinafter called the Company) and the Customer. The Customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement with the Company. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Savannah River Projects.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the

contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses).

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Santee–1–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter call the Customer) in South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and South Carolina Public Service Authority (hereinafter called the Authority). Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Authority's transmission and distribution system.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Authority. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Authority's rate.

Transmission:

$1.86 per kilowatt of total contract demand per month as of March 2017 is presented for illustrative purposes.

The initial transmission rate is subject to annual adjustment on July 1 of each year, and will be computed subject to the formula contained in Appendix A to the Government-Authority Contract.

Proceedings before FERC involving the Authority's Open Access Transmission Tariff may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Authority (less applicable losses of two per cent (2%) as of March 2017). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Authority's system.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Service Interruption:

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\left(\begin{array}{c}\text{Number of kilowatts unavailable}\\ \text{for at least 12 hours in}\\ \text{any calendar day}\end{array}\right) \times \left(\frac{\text{Monthly Capacity Charge}}{\text{Number of Days in Billing Month}}\right)$$

Wholesale Power Rate Schedule Santee–2–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter call the Customer) in South Carolina to whom power may be wheeled pursuant to contracts between the Government and South Carolina Public Service Authority (hereinafter called the Authority). The customer is responsible for providing a scheduling arrangement with the Government. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on

the Authority's transmission and distribution system.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Authority. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Authority's rate.

Transmission:

$1.86 per kilowatt of total contract demand per month as of March 2017 is presented for illustrative purposes.

The initial transmission rate is subject to annual adjustment on July 1 of each year, and will be computed subject to the formula contained in Appendix A to the Government-Authority Contract.

Proceedings before FERC involving the Authority's Open Access Transmission Tariff may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract that the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Authority (less applicable losses of two per cent (2%) as of March 2017). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Authority's system.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Service Interruption:

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\left(\begin{array}{c}\text{Number of kilowatts unavailable}\\ \text{for at least 12 hours in}\\ \text{any calendar day}\end{array}\right) \times \left(\frac{\text{Monthly Capacity Charge}}{\text{Number of Days in Billing Month}}\right)$$

Wholesale Power Rate Schedule Santee–3–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter call the Customer) in South Carolina to whom power may be scheduled pursuant to contracts between the Government and South Carolina Public Service Authority (hereinafter called the Authority). The customer is responsible for providing a transmission arrangement. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Authority. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Authority's rate.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract that the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Authority (less applicable losses).

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Service Interruption:

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as

to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\left(\begin{array}{c}\text{Number of kilowatts unavailable}\\ \text{for at least 12 hours in}\\ \text{any calendar day}\end{array}\right) \times \left(\frac{\text{Monthly Capacity Charge}}{\text{Number of Days in Billing Month}}\right)$$

Wholesale Power Rate Schedule Santee–4–F

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter call the Customer) in South Carolina served through the transmission facilities of South Carolina Public Service Authority (hereinafter called the Authority). The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Authority. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Authority's rate.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract that the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Authority (less applicable losses).

Billing Month;

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Service Interruption:

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced as to kilowatts of such capacity which have been interrupted or reduced for each day in accordance with the following formula:

$$\left(\begin{array}{c}\text{Number of kilowatts unavailable}\\ \text{for at least 12 hours in}\\ \text{any calendar day}\end{array}\right) \times \left(\frac{\text{Monthly Capacity Charge}}{\text{Number of Days in Billing Month}}\right)$$

Wholesale Power Rate Schedule SCE&G–1–F

Availability:

This rate schedule shall be available public bodies and cooperatives (any one of which is hereinafter called the Customer) in South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and the South Carolina Electric & Gas Company (hereinafter called the Company). Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$2.86 per kilowatt of total contract demand per month as of March 2017 is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the transmission and distribution charges paid by the Government. The transmission charges are governed by and subject to refund based upon the determination in proceedings before FERC involving the Company's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service:

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Wholesale Power Rate Schedule SCE&G–2–F

Availability:

This rate schedule shall be available public bodies and cooperatives (any one of which is hereinafter called the Customer) in South Carolina to whom power may be wheeled pursuant to contracts between the Government and the South Carolina Electric & Gas Company (hereinafter called the Company). The customer is responsible for providing a scheduling arrangement with the Government. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$2.86 per kilowatt of total contract demand per month as of March 2017 is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the transmission and distribution charges paid by the Government. The transmission charges are governed by and subject to refund based upon the determination in proceedings before FERC involving the Company's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract that the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service:

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Wholesale Power Rate Schedule SCE&G–2–F

Availability:

This rate schedule shall be available public bodies and cooperatives (any one of which is hereinafter called the Customer) in South Carolina to whom power may be wheeled pursuant to contracts between the Government and the South Carolina Electric & Gas Company (hereinafter called the Company). The customer is responsible for providing a scheduling arrangement with the Government. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$2.86 per kilowatt of total contract demand per month as of March 2017 is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the transmission and distribution charges paid by the Government. The transmission charges are governed by and subject to refund based upon the determination in proceedings before FERC involving the Company's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract that the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service:

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Wholesale Power Rate Schedule SCE&G–4–F

Availability:

This rate schedule shall be available public bodies and cooperatives (any one of which is hereinafter called the Customer) in South Carolina served through the transmission facilities of South Carolina Electric & Gas Company (hereinafter called the Company). The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement. Nothing in this rate schedule shall preclude an eligible customer from electing service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, J. Strom Thurmond, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. This rate schedule does not apply to energy from pumping operations at the Carters and Richard B. Russell Projects.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Capacity Charge:

$4.09 per kilowatt of total contract demand per month.

Energy Charge:

12.33 Mills per kilowatt-hour.

Generation Services:

$0.12 per kilowatt of total contract demand per month.

Additional rates for Transmission, System Control, Reactive, and Regulation Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission of the Company's rate.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract that the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the company (less applicable losses).

Billing Month:

The billing month for power sold under this schedule shall end at 12:00

midnight on the last day of each calendar month.

Conditions of Service:

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Wholesale Power Rate Schedule Pump–1–A

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, Florida, South Carolina, or North Carolina to whom power is provided pursuant to contracts between the Government and the Customer.

Applicability:

This rate schedule shall be applicable to the sale at wholesale energy generated from pumping operations at the Carters and Richard B. Russell Projects and sold under appropriate contracts between the Government and the Customer. The energy will be segregated from energy from other pumping operations.

Character of Service:

The energy supplied hereunder will be delivered at the delivery points provided for under appropriate contracts between the Government and the Customer.

Monthly Rate:

The rate for energy sold under this rate schedule for the months specified shall be:

$EnergyRate = (C_{wav} \div F_{wav}) \div (1 - L_d)$ [computed to the nearest $.00001 (1/100 mill) per kWh]

(The weighted average cost of energy for pumping divided by the energy conversion factor, quantity divided by one minus losses for delivery.)

Where:

$C_{wav} = C_{T1} \div E_{T1}$

(The weighted average cost of energy for pumping for this rate schedule is equal to the cost of energy purchased or supplied for the benefit of the customer for pumping divided by the total energy for pumping.)

$C_{T1} = C_p + C_s$

(Cost of energy for pumping for this rate schedule is equal to the cost of energy purchased or supplied for the benefit of the customer plus the cost of energy in storage carried over from the month preceding the specified month.)

$$E_{T1} = E_p x(1 - L_p) + E_s^{t-1}$$

(Energy for pumping for this rate schedule is equal to the energy purchased or supplied for the benefit of the customer, after losses, plus the energy for pumping in storage as of the end of the month preceding the specified month.)

$$C_s = C_{wav}^{t-1} x E_s^{t-1}$$

(Cost of energy in storage is equal to the weighted average cost of energy for pumping for the month preceding the specified month times the energy for pumping in storage at the end of the month preceding the specified month.)

C_p

= Dollars cost of energy purchased or supplied for the benefit of the customer for pumping during the specified month, including all direct costs to deliver energy to the project.

E_p

= Kilowatt-hours of energy purchased or supplied for the benefit of the customer for pumping during the specified month.

L_p

= Energy loss factor for transmission on energy purchased or supplied for the benefit of the customer for pumping (Expected to be .03 or three percent.)

$$E_s^{t-1}$$

= Kilowatt-hours of energy in storage as of the end of the month immediately preceding the specified month

$$C_{wav}^{t-1}$$

= Weighted average cost of energy for pumping for the month immediately preceding the specified month.

$F_{wav} = E_G \div E_T$

(Weighted average energy conversion factor is equal to the energy generated from pumping divided by the total energy for pumping.)

E_G

= Energy generated from pumping.

L_d

= Weighted average energy loss factor on energy delivered by the facilitator to the customer.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Facilitator (less any losses required by the Facilitator). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Facilitator's system.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Replacement-1

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, Florida, South Carolina, or North Carolina to whom power is provided pursuant to contracts between the Government and the Customer.

Applicability:

This rate schedule shall be applicable to the sale at wholesale energy purchased to meet contract minimum energy and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The energy supplied hereunder will be delivered at the delivery points provided for under appropriate contracts between the Government and the Customer.

Monthly Rate:

The rate for energy sold under this rate schedule for the months specified shall be:

$EnergyRate = C_{wav} \div (1 - L_d)$ [computed to the nearest $.00001 (1/100 mill) per kWh]

(The weighted average cost of energy for replacement energy divided by one minus losses for delivery.)

Where:

$C_{wav} = C_p \div (E_p x(1 - L_p))$

(The weighted average cost of energy for replacement energy is equal to the cost of replacement energy purchased divided by the replacement energy purchased, net losses.)

C_p

= Dollars cost of energy purchased for replacement energy during the specified month, including all direct costs to deliver energy to the project.

E_p

= Kilowatt-hours of energy purchased for replacement energy during the specified month.

L_p
= Energy loss factor for transmission on replacement energy purchased (Expected to be 0 or zero percent.)

L_d
= Weighted average energy loss factor on energy delivered by the facilitator to the customer.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Facilitator (less any losses required by the Facilitator). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Facilitator's system.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

[FR Doc. 2017–18424 Filed 8–30–17; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9966–88–Region 2]

Proposed CERCLA Cost Recovery Settlement for the Wolff-Alport Superfund Site, Queens County, New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement pursuant to CERCLA, with the City of New York (''Settling Party'') concerning the Wolff-Alport Superfund Site (''Site''), located in Queens County, New York.

The Site includes portions of the former Wolff-Alport Chemical Company facility and nearby areas, including businesses, public sidewalks, city sewers, and nearby streets, where hazardous substances including radioactive contamination were disposed or have migrated. Settling Party is the owner of property which constitutes a portion of the Site.

DATES: Comments must be submitted on or before October 2, 2017.

ADDRESSES: The proposed settlement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Wolff-Alport Superfund Site, Queens County, New York, Index No. CERCLA–02–2017–2009. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Jean Regna, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866. Email: *regna.jean@epa.gov*; Telephone: 212–637–3164.

SUPPLEMENTARY INFORMATION: The Settling Party agrees to pay EPA $659,037.00 in reimbursement of EPA's past response costs paid at or in connection with the Site. The settlement includes a covenant by EPA not to sue or to take administrative action against the Settling Party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to the response costs related to the work at the Site enumerated in the settlement agreement. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007–1866.

Dated: August 23, 2017.

John Prince,

Acting Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2017–18504 Filed 8–30–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL LABOR RELATIONS AUTHORITY

Senior Executive Service Performance Review Board

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: The Federal Labor Relations Authority (FLRA) publishes the names of the persons selected to serve on its SES Performance Review Board (PRB). This notice supersedes all previous notices of the PRB membership.

DATES: Upon publication.

ADDRESSES: Written comments about this final rule can be emailed to *EngagetheFLRA@flra.gov* or sent to the Case Intake and Publication Office, Federal Labor Relations Authority, 1400 K Street NW., Washington, DC 20424. All written comments will be available for public inspection during normal business hours at the Case Intake and Publication Office.

FOR FURTHER INFORMATION CONTACT: Gina K. Grippando, Counsel for Regulatory and Public Affairs, Federal Labor Relations Authority, Washington, DC 20424, (202) 218–7776.

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more PRBs. The PRB shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any response by the senior executive, and make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on the FLRA's PRB.

PRB Chairman:

James T. Abbott, Chief Counsel to the Acting Chairman

PRB Members:

Richard S. Jones, Regional Director, Atlanta Regional Office; Kimberly D. Moseley, Executive Director, Federal Service Impasses Panel; Peter A. Sutton, Acting General Counsel; William R. Tobey, Chief Counsel to Member DuBester.

Dated: August 28, 2017.

Michael W. Jeffries,

Acting Executive Director.

[FR Doc. 2017–18513 Filed 8–30–17; 8:45 am]

BILLING CODE 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 September 14, 2017.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *James C. Volkert, individually and as trustee of the James C. Volkert Revocable Living Trust, the James C. Volkert Revocable Living Trust, Susan A. Volkert, Jacquelyn Volkert, and Michael Volkert,* all of Montgomery, Illinois; as a group acting in concert to retain voting shares of Montgomery Bancshares, Inc., and thereby indirectly retain voting shares of Bank of Montgomery, both in Montgomery, Illinois.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Jeff Schumacher,* Lincoln, Nebraska; to acquire voting shares of North Central Bancorp, Inc., and thereby indirectly acquire BankFirst, both in Norfolk, Nebraska.

Board of Governors of the Federal Reserve System, August 25, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–18445 Filed 8–30–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–0607]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) 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; (b) 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; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) 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; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

The National Violent Death Reporting System (NVDRS)(OMB Control Number 0920–0607, expiration 10/31/2017)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Violence is a public health problem. The World Health Organization has estimated that 804,000 suicides and 475,000 homicides occurred in the year 2012 worldwide. Violence in the United States is a particular problem for the young; suicide and homicide were among the top 4 leading causes of death for Americans 10–34 and 1–34 years of age in 2015, respectively. In 2002 Congress approved the first appropriation to start the National Violent Death Reporting System (NVDRS). NVDRS is coordinated and funded at the federal level but is dependent on separate data collection efforts managed by the state health department (or their bona fide agent) in each state.

NVDRS is an ongoing surveillance system that captures annual violent death counts and circumstances that precipitate each violent incident. Data on violent death is defined as a death resulting from the intentional use of physical force or power (*e.g.,* threats or intimidation) against oneself, another person, or against a group or community. CDC aggregates de-identified data from each state into one large national database that is analyzed and released in annual reports and publications. Descriptive analyses such as frequencies and rates are employed. A restricted access database is available for researchers to request access to NVDRS data for analysis and a web-based query system is open for public use that allows for electronic querying of data. NVDRS generates public health surveillance information at the national, state, and local levels that is more detailed, useful, and timely. Government, state and local communities have used NVDRS data to develop and evaluate prevention programs and strategies. NVDRS is also used to understand magnitude, trends, and characteristics of violent death and what factors protect people or put them at risk for experiencing violence.

This is a revision request for an additional three years to continue data collection efforts of the currently approved information collection project. The purpose of this revision is to (1) implement updates to the web-based system to improve performance, functionality, and accessibility; (2) add new data elements to the system and minimal revisions to the NVDRS coding manual; (3) modify burden hours to account for the increase in violent deaths in the U.S. since 2003; and (4) to decrease the number of funded reporting state health departments from 58 to 56.

The estimated annual burden hours are 34,250. There are no costs to respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Total number of responses per respondent	Average burden per response (in hours)
Public Agencies	Retrieving and refile records	56	1,223	30/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–18512 Filed 8–30–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–4565]

Electronic Study Data Submission; Data Standards; Support for Version Update of the Medical Dictionary for Regulatory Activities

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing support for the most current version of Medical Dictionary for Regulatory Activities (MedDRA), end of support for earlier versions of MedDRA, and an update to the FDA Data Standards Catalog (Catalog) for study data provided in new drug applications (NDAs), abbreviated new drug applications (ANDAs), biologics license applications (BLAs), and investigational new drug applications (INDs) to the Center for Biologics Evaluation and Research (CBER) and the Center for Drug Evaluation and Research (CDER).

DATES: Submit either electronic or written comments on this document at any time.

ADDRESSES: You may submit comments as follows:

Electronic Submission

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2017–N–4565 for ''Electronic Study Data Submission; Data Standards; Support for Version Update of the Medical Dictionary for Regulatory Activities.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ron Fitzmartin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1115, Silver Spring, MD 20993–0002, 301–796–5333, *cderdatastandards@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7268, Silver Spring, MD 20993–0002, 240–402–7911, *stephen.ripley@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On December 17, 2014, FDA published final guidance for industry ''Providing Regulatory Submissions in Electronic Format—Standardized Study Data'' (eStudy Data) posted on FDA's Study Data Standards Resources Web page at *https://www.fda.gov/forindustry/datastandards/studydatastandards/default.htm.* The eStudy Data guidance

implements the electronic submission requirements of section 745A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379k–1(a)) for study data contained in NDAs, ANDAs, BLAs, and INDs to CBER or CDER by specifying the format for electronic submissions. This provision required that the electronic format for submission of applications be specified in guidance and effective no sooner than 24 months after issuance of the final guidance. The initial timetable for the implementation of electronic submission requirements for study data is December 17, 2016 (24 months after issuance of final guidance for NDAs, BLAs, ANDAs, and 36 months for INDs). The eStudy Data guidance states that a **Federal Register** notice will specify the transition date for all version updates (with the month and day for the transition date corresponding to March 15).

FDA currently supports and requires MedDRA for the coding of adverse events in studies submitted to FDA's CBER or CDER in NDAs, ANDAs, BLAs, and INDs in the electronic common technical document (eCTD) format. However, the requirement to code adverse events using MedDRA in the most current version (available at *https://www.meddra.org*) does not apply to postmarketing studies that are submitted in eCTD sections 5.3.5.4 and 5.3.6 (*https://www.fda.gov/downloads/Drugs/DevelopmentApprovalProcess/FormsSubmissionRequirements/ElectronicSubmissions/UCM163175.pdf*).

Generally, the studies included in a submission are conducted over many years and may have used different MedDRA versions to code adverse events. The expectation is that sponsors or applicants will use the most current version of MedDRA at the time of study start. However, there is no requirement to recode earlier studies. The transition date for support and requirement to use the most current version of MedDRA is March 15, 2018. Although the use of the most current version is supported as of this **Federal Register** notice and sponsors or applicants are encouraged to begin using it, the use of the most current version will only be required in submissions for studies that start after March 15, 2019. The Catalog will list March 15, 2019, as the ''date requirement begins.'' The Study Data Technical Conformance Guide provides additional information and recommendations on the coding of adverse events (*https://www.fda.gov/downloads/forindustry/datastandards/studydatastandards/ucm384744.pdf*).

FDA will no longer support version 8 or earlier of MedDRA. FDA support for earlier versions of MedDRA will end for studies that start after March 15, 2019. The FDA Data Standards Catalog will be updated to list March 15, 2019, as the ''date support ends.'' Studies that start after March 15, 2019, will be required to use the most current version of MedDRA.

Dated: August 28, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–18471 Filed 8–30–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–4764]

Policy Clarification and Premarket Notification (510(k)) Submissions for Ultrasonic Diathermy Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Policy Clarification and Premarket Notification [510(k)] Submissions for Ultrasonic Diathermy Devices—Draft Guidance for Industry and Food and Drug Administration Staff.'' When final, this draft guidance will clarify FDA's policy related to compliance with applicable performance standards and conformance to International Electrotechnical Commission (IEC) consensus standards for ultrasonic diathermy devices. This draft guidance will also provide recommendations for information to provide in 510(k) submissions for ultrasonic diathermy devices. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by October 30, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–4764 for ''Policy Clarification and Premarket Notification [510(k)] Submissions for Ultrasonic Diathermy Devices—Draft Guidance for Industry and Food and Drug Administration.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff Office between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS

CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Policy Clarification and Premarket Notification [510(k)] Submissions for Ultrasonic Diathermy Devices—Draft Guidance for Industry and Food and Drug Administration Staff'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Jismi Johnson, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1524, Silver Spring, MD 20993–0002, 301–796–6424.

SUPPLEMENTARY INFORMATION:

I. Background

Ultrasonic diathermy devices are class II medical devices regulated under 21 CFR 890.5300(a), *Ultrasonic diathermy.* Ultrasonic therapy devices must also comply with FDA radiation safety performance standards in 21 CFR part 1010, *Performance standards for electronic products: General,* and 21 CFR 1050.10, *Ultrasonic therapy products.* FDA recognizes that there are several IEC standards with which other countries require conformance or recognize for ultrasonic therapy products. This means that manufacturers, who distribute these products in both the United States and other countries, might have to ensure conformance of their products to IEC standards and comply with FDA performance standards. This may cause manufacturers to duplicate their efforts.

When final, this draft guidance will clarify FDA's policy related to compliance with applicable performance standards and conformance to IEC consensus standards for ultrasonic diathermy devices. If firms provide a declaration of conformity with the relevant provisions of the current FDA recognized versions of the IEC 60601–2–5 and IEC 61689 standards, FDA does not intend to consider whether firms comply with certain requirements of 21 CFR 1050.10. This draft guidance will also provide recommendations for information to provide in 510(k) submissions for ultrasonic diathermy devices.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on policy clarification and premarket notification (510(k)) submissions for ultrasonic diathermy devices. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Policy Clarification and Premarket Notification [510(k)] Submissions for Ultrasonic Diathermy Devices—Draft Guidance for Industry and Food and Drug Administration'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500003 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

The draft guidance also refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in 21 CFR parts 1002 through 1050 are approved under OMB control number 0910–0025.

Dated: August 28, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–18470 Filed 8–30–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–2153]

Use of Real-World Evidence To Support Regulatory Decision-Making for Medical Devices; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the guidance entitled ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices.'' FDA is issuing this guidance to clarify how we evaluate real-world data to determine whether it may be sufficiently relevant and reliable to generate the types of real-world evidence that can be used in FDA

regulatory decision-making for medical devices. The guidance describes the circumstances when real-world evidence can be used, and the scientific criteria that must be fulfilled in order to have confidence in the data. Finally, the guidance describes some examples of actual uses of real-world evidence that have already led to FDA decisions.

DATES: The announcement of the guidance is published in the **Federal Register** on August 31, 2017.

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

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2016–D–2153 for ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices; Guidance for Industry and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Benjamin Eloff, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2254, Silver Spring, MD 20993–0002, 301–796–8528; and Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

To protect and promote public health, FDA needs to understand and evaluate the available evidence related to regulated products. For medical devices, available evidence is traditionally comprised of non-clinical and in some cases, clinical studies conducted and provided to FDA by the device manufacturer or sponsor. However, FDA recognizes that a wealth of data covering medical device experience exists and is routinely collected in the course of treatment and management of patients. Under certain circumstances, these real-world data (RWD) may constitute real-world evidence (RWE), or clinical evidence regarding the usage and potential benefits or risks of a medical product derived from analysis of RWD, that may be of sufficient quality to help inform or augment FDA's understanding of the benefit-risk profile of devices at various points in their life cycle, and could potentially be used to aid FDA in regulatory decision-making.

This document describes the characteristics and sources of RWD and characteristics of RWE that may be sufficient for use in making various regulatory decisions. Because of its nature, the quality (*i.e.,* relevance and reliability) of RWD can vary greatly across sources. Likewise, there are many types of regulatory decisions with varying levels of evidentiary needs. FDA's evidentiary standards for regulatory decision-making are not changing. FDA encourages the use of RWE where appropriate, and will evaluate whether the available RWE is

of sufficient relevance and reliability to address the specific regulatory decision being considered.

This guidance does not affect any Federal, State or local laws or regulations or foreign laws or regulations that may otherwise be applicable to the use or collection of RWE and that provide protections for human subjects or patient privacy. This guidance should be used to complement, but not supersede, other device-specific and good clinical practice guidance documents. FDA considered comments received on the draft guidance that published in the **Federal Register** of July 27, 2016 (81 FR 49228). FDA revised the guidance as appropriate in response to the comments.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on use of real-world evidence to support regulatory decision-making for medical devices. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *https://www.fda.gov/BiologicsBloodVaccines/GuidanceCompliance RegulatoryInformation/default.htm* or *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Use of Real-World Evidence to Support Regulatory Decision-Making for Medical Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500012 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subparts A through E (premarket approval), have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H (humanitarian device exemption), have been approved under OMB control number 0910–0332; the collections of information in 21 CFR part 812 (investigational device exemption) have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 822 (postmarket surveillance) have been approved under OMB control number 0910–0449; the collections of information in 21 CFR 50.23 (exception from general requirements for informed consent) have been approved under OMB control number 0910–0586; the collections of information in 21 CFR part 54 (financial disclosure by clinical investigators) have been approved under OMB control number 0910–0396; the collections of information in 21 CFR 56.115 (institutional review boards records) have been approved under OMB control number 0910–0130; and the collections of information in 21 CFR parts 50 subpart B (informed consent of human subjects) and 56 (institutional review boards) have been approved under OMB control number 0910–0755. The collections of information in the guidance ''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff'' have been approved under OMB control number 0910–0756.

Dated: August 25, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–18469 Filed 8–30–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Peer Review of Draft NTP Approach to Genomic Dose-Response Modeling; Availability of Documents; Request for Comments; Notice of Expert Panel Meeting

SUMMARY: The National Toxicology Program (NTP) announces an expert panel meeting and is obtaining comment on a proposed approach to genomic dose-response modeling. Prior to the expert panel meeting, NTP will host four webinars that present other approaches to genomic dose-response modeling. The expert panel meeting and four webinar presentations leading up to the meeting are open to the public. Registration is requested for both in-person meeting attendance and oral comment; registration is required to access the meeting webcast. URLs for live and archived pre-meeting webinars will be available at *https://ntp.niehs.nih.gov/about/org/ntpexpertpanel/.*

DATES:

Pre-Meeting Webinars: Dates are posted on the meeting Web site (*https://ntp.niehs.nih.gov/about/org/ntpexpertpanel/*). Registration is not required to view the pre-meeting webinars.

Meeting: October 23–25, 2017; expert panel meeting begins at 8:30 a.m. Eastern Daylight Time (EDT) each day and continues until adjournment.

Document Availability: Draft document should be available by August 23, 2017, at *https://ntp.niehs.nih.gov/about/org/ntpexpertpanel/.*

Written Public Comment Submissions: Deadline is October 13, 2017.

Registration for Oral Comments: Deadline is October 13, 2017.

Registration for Meeting and/or to View Webcast: Deadline is October 25, 2017. Registration to view the meeting via webcast is required.

ADDRESSES:

Meeting Location: Rodbell Auditorium, Rall Building, NIEHS, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting Web site: The draft document, preliminary agenda, registration, pre-meeting webinars details, and other meeting materials will be available at *https://ntp.niehs.nih.gov/about/org/ntpexpertpanel/.*

Webcast: The URL for viewing the expert panel meeting webcast will be provided to those who register.

FOR FURTHER INFORMATION CONTACT:

Anna Stamatogiannakis, ICF, 2635 Meridian Parkway, Suite 200, Durham, NC, USA 27713. Phone: (919) 293–1652, Fax: (919) 293–1645, Email: *anna.stamatogiannakis@icf.com.*

SUPPLEMENTARY INFORMATION:

Background: NTP proposes to use the approach embodied in the BMDExpress software to perform gene and pathway-level genomic dose-response modeling as part of Tox21 Phase 3 and in vivo screening level studies. NTP seeks external scientific input on its proposed approach by an expert panel. NTP's goal

for implementing this approach considers a number of factors including methods accepted in the peer-review literature, ease of translation to risk assessment, and ease of understanding for the variety of potential end users that may not necessarily be experts in mathematical and systems modeling. A series of four pre-meeting webinars and the expert panel meeting aim to review current approaches and discuss best practices. The webinar series will provide an overview of various current approaches and NTP's proposed approach to genomic dose-response modeling. The expert panel will consider information presented in the webinars as well as other technical factors during its peer review of NTP's proposed approach.

Pre-Meeting Webinars Registration: There is no registration required to attend the webinars. The URLs for live and archived webinars will be available on the meeting Web site at *https://ntp.niehs.nih.gov/about/org/ntpexpertpanel/;* please refer to this page for the most current information about the webinars and the meeting.

Expert Panel Meeting and Registration: The meeting is open to the public with time set aside for oral public comment. Interested individuals can attend the meeting in person or view the webcast. Attendance at NIEHS is limited only by the space available. For planning purposes, registration to attend the meeting at NIEHS or view the webcast is requested. Registration to attend the meeting in person and/or view the webcast is by October 25, 2017, at *https://ntp.niehs.nih.gov/about/org/ntpexpertpanel/.*

Attending the Meeting: Visitor and security information for those attending in person is available at *https://www.niehs.nih.gov/about/visiting/index.cfm.* Individuals with disabilities who need accommodation to participate in this event should contact Anna Stamatogiannakis by phone: (919) 293–1652 or email: *anna.stamatogiannakis@icf.com.* TTY users should contact the Federal TTY Relay Service at (800) 877–8339. Requests should be made at least five business days in advance of the event.

Meeting Materials: The expert panel meeting agenda will be available on the meeting Web site at *https://ntp.niehs.nih.gov/about/org/ntpexpertpanel/.* The draft document should be available by August 23, 2017. Additional information will be posted when available or may be requested in hardcopy, see **FOR FURTHER INFORMATION CONTACT**.

Following the meeting, a report of the panel meeting will be prepared and made available on the NTP Web site. Individuals are encouraged to access the meeting Web site to stay abreast of the most current information regarding the meeting.

Request for Comments: NTP invites written and oral public comments on the draft NTP approach. The deadline for submission of written comments is October 13, 2017, to enable review by the peer review panel and NTP staff prior to the meeting. Written public comments and any other correspondence on NTP's proposed approach should be sent to the **FOR FURTHER INFORMATION CONTACT**. Persons submitting written comments should include their name, affiliation, mailing address, phone, email, and sponsoring organization (if any). Written comments received in response to this notice will be posted on the NTP Web site and the submitter identified by name, affiliation, and/or sponsoring organization (if any). Guidelines for public comments are at *https://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf.*

Oral public comment at this meeting is welcome, with time set aside on October 23 for the formal presentation of oral remarks on the draft document. In addition to in-person oral comments at the NIEHS, public comments can be presented by teleconference line. There will be 50 lines for this call; availability is on a first-come, first-served basis. The lines will be open from 8:30 a.m. each day until adjournment. Oral comments will be received only during the formal public comment periods indicated on the preliminary agenda. The access number for the teleconference line will be provided to registrants by email prior to the meeting. Each organization is allowed one time slot. At least 7 minutes will be allotted to each time slot, and if time permits, the allotment may be extended to 10 minutes at the discretion of the chair. In addition to the formal public comment period, there will be several opportunities in the agenda for ad hoc comments.

Persons wishing to make oral comments during the formal comment period on October 23 are asked to register online at *https://ntp.niehs.nih.gov/about/org/ntpexpertpanel/* by October 13, 2017, and indicate whether they will present comments in person or via the teleconference line. Oral public commenters are asked to send a copy of their slides and/or statement or talking points to the **FOR FURTHER INFORMATION CONTACT** by October 13, 2017. Written statements can supplement and may expand the oral presentation. Registration for in-person oral comments will also be available at the meeting, although time allowed for presentation by on-site registrants may be less than that for registered speakers and will be determined by the number of speakers who register on-site. Time is also being set aside in the agenda for ad hoc comments by both in-person attendees and webcast viewers. Information on how to make oral remarks during those ad hoc comment periods will be provided at the meeting.

Background Information on Expert Panels: NTP panels are technical, scientific advisory bodies established on an ''as needed'' basis to provide independent scientific peer review and advise NTP on agents of public health concern, new/revised toxicological test methods, or other issues. These panels help ensure transparent, unbiased, and scientifically rigorous input to the program for its use in making credible decisions about human hazard, setting research and testing priorities, and providing information to regulatory agencies about alternative methods. NTP welcomes public comment for dose-response modeling.

Dated: August 15, 2017.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2017–18462 Filed 8–30–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–R–2017–N102; FXRS12630900000–167–FF09R81000; OMB Control Number 1018–0140]

Agency Information Collection Activities; Hunting and Fishing Application Forms and Activity Reports for National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service) are proposing to revise an information collection.

DATES: Interested persons are invited to submit comments on or before October 30, 2017.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–

3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0140 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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.

Abstract: The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended (Administration Act), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k-4) (Recreation Act) govern the administration and uses of national wildlife refuges and wetland management districts. The Administration Act consolidated all the different refuge areas into a single Refuge System. It also authorizes us to permit public uses, including hunting and fishing, on lands of the Refuge System when we find that the activity is compatible and appropriate with the purpose for which the refuge was established. The Recreation Act allows the use of refuges for public recreation when the use is not inconsistent or does not interfere with the primary purpose(s) of the refuge.

We administer 373 hunting programs and 310 fishing programs on 411 refuges and wetland management districts. We only collect user information at about 20 percent of these refuges. Information that we plan to collect will help us:

- Administer and monitor hunting and fishing programs on refuges.
- Distribute hunting and fishing permits in a fair and equitable manner to eligible participants.

We use nine application and report forms associated with hunting and fishing on refuges. We may not allow all opportunities on all refuges; therefore, we developed different forms to simplify the process and avoid confusion for applicants. The currently approved forms are available online at *http://www.fws.gov/forms/.* Not all refuges will use each form and some refuges may collect the identical information in a non-form format (meaning there is no designated form associated with the collection of information).

We use the following application forms when we assign areas, dates, and/or types of hunts via a drawing because of limited resources, high demand, or when a permit is needed to hunt. We issue application forms for specific periods, usually seasonally or annually.

- FWS Form 3–2354 (Quota Deer Hunt Application).
- FWS Form 3–2355 (Waterfowl Lottery Application).
- FWS Form 3–2356 (Big/Upland Game Hunt Application).
- FWS Form 3–2357 (Migratory Bird Hunt Application).
- FWS Form 3–2358 (Fishing/Shrimping/Crabbing Application).

Forms 3–2354 through 3–2358 collect information on:

- Applicant (name, address, phone number) so that we can notify applicants of their selection.
- User preferences (dates, areas, method) so that we can distribute users equitably.
- Whether or not the applicant is applying for a special opportunity for disabled or youth hunters.
- Age of youth hunter(s) so that we can establish eligibility.

We ask users to report on their success after their experience so that we can evaluate hunting/fishing quality and resource impacts. We use the following activity reports, which we distribute during appropriate seasons, as determined by State or Federal regulations.

- FWS Form 3–2359 (Big Game Harvest Report).
- FWS Form 3–2360 (Fishing Report).
- FWS Form 3–2361 (Migratory Bird Hunt Report).
- FWS Form 3–2362 (Upland/Small Game/Furbearer Report).

Forms 3–2359 through 3–2362 collect information on:

- Names of users so we can differentiate between responses.
- City and State of residence so that we can better understand if users are local or traveling.
- Dates, time, and number in party so we can identify use trends and allocate staff and resources.
- Details of success by species so that we can evaluate quality of experience and resource impacts.

Title of Collection: Hunting and Fishing Application Forms and Activity Reports for National Wildlife Refuges, 50 CFR 25.41, 25.43, 25.51, 26.32, 26.33, 27.42, 30.11, 31.15, 32.1 to 32.72.

OMB Control Number: 1018–0140.

Form Number: FWS Forms 3–2354 through 3–2362.

Type of Review: Revision to a currently approved collection.

Respondents/Affected Public: Individuals and households.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion (for applications, usually once per year at the beginning of the hunting season; for activity reports, once at the conclusion of the hunting/fishing experience).

Total Estimated Annual Nonhour Burden Cost: We estimate the annual non-hour cost burden to be $60,000 for hunting application fees at some refuges.

Requirement	Annual number of respondents	Total annual responses	Completion time per response	Total annual burden hours
Hunting/Fishing Applications				
Form 3–2354, "Quota Deer Hunt Application"	169,200	169,200	30 minutes	84,600
Form 3–2355, "Waterfowl Lottery Application"	87,400	87,400	30 minutes	43,700
Form 3–2356, "Big/Upland Game Hunt Application"	2,400	2,400	30 minutes	1,200
Form 3–2357 "Migratory Bird Hunt Application"	4,900	4,900	30 minutes	2,450
Form 3–2358, "Fishing/Shrimping/Crabbing Application"	2,400	2,400	30 minutes	1,200
Harvest/Fishing Activity Reports				
Form 3–2359, "Big Game Harvest Report"	82,700	82,700	15 minutes	20,675
Form 3–2360, "Fishing Report"	387,300	387,300	15 minutes	96,825
Form 3–2361, "Migratory Bird Hunt Report"	29,100	29,100	15 minutes	7,275
Form 3–2362, "Upland/Small Game/Furbearer Report"	24,400	24,400	15 minutes	6,100
Totals	789,800	789,800	.....	264,025

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Dated: August 28, 2017.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2017–18489 Filed 8–30–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–R–2017–N114; FF07R08000F–XRS–1263–0700000–178; OMB Control Number 1018–0141]

Agency Information Collection Activities; Alaska Guide Service Evaluation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 30, 2017.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0141 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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.

Abstract: We collect information via FWS Form 3–2349 (Alaska Guide Service Evaluation) to help us evaluate commercial guide services on our national wildlife refuges in the State of Alaska (State). The National Wildlife Refuge Administration Act of 1966, as amended (16 U.S.C. 668dd–ee), authorizes us to permit uses, including commercial visitor services, on national wildlife refuges when we find the activity to be compatible with the purposes for which the refuge was established. With the objective of making available a variety of quality visitor services for wildlife-dependent recreation on National Wildlife Refuge System lands, we issue permits for commercial guide services, including big game hunting, sport fishing, wildlife viewing, river trips, and other guided activities. We use FWS Form 3–2349 as a method to:

- Monitor the quality of services provided by commercial guides.
- Gauge client satisfaction with the services.
- Assess the impacts of the activity on refuge resources.

The client is the best source of information on the quality of commercial guiding services. We collect:

- Client name.
- Guide name(s).
- Type of guided activity.
- Dates and location of guided activity.
- Information on the services received, such as the client's expectations, safety, environmental impacts, and client's overall satisfaction.

We encourage respondents to provide any additional comments that they wish regarding the guide service or refuge experience, and ask whether or not they wish to be contacted for additional information.

The above information, in combination with State-required guide activity reports and contacts with guides and clients in the field, provides a comprehensive method for monitoring permitted commercial guide activities. A regular program of client evaluation helps refuge managers detect potential problems with guide services so that we can take corrective actions promptly. In addition, we use this information during the competitive selection process for big game and sport fishing guide permits to evaluate an applicant's ability to provide a quality guiding service.

Title of Collection: Alaska Guide Service Evaluation.

OMB Control Number: 1018–0141.

Form Number: FWS Form 3–2349.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Clients of permitted commercial guide service providers.

Total Estimated Number of Annual Respondents: 264.

Total Estimated Number of Annual Responses: 264.

Estimated Completion Time per Response: 15 minutes.

Total Estimated Number of Annual Burden Hours: 66.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time, following use of commercial guide services.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: August 28, 2017.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2017–18486 Filed 8–30–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[MMAA104000; OMB Control Number 1010–0048; Docket ID: BOEM–2017–0016]

Agency Information Collection Activities; Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 30, 2017.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, VAM–DIR, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov.* Please reference Office of Management and Budget (OMB) Control Number 1010–0048 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Anna Atkinson by email, or by telephone at 703–787–1025.

SUPPLEMENTARY INFORMATION: We, BOEM, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of BOEM? (2) will this information be processed and used in a timely manner? (3) is the estimate of burden accurate? (4) how might BOEM enhance the quality, utility, and clarity of the information to be collected? and (5) how might BOEM minimize the burden of this collection on the respondents, including through the use of information technology?

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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.

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.

Title of Collection: 30 CFR 551, Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf.

OMB Control Number: 1010–0048.

Form Number: BOEM–0327, Application for Permit to Conduct Geological or Geophysical Exploration for Mineral Resources of Scientific Research on the Outer Continental Shelf.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents comprise Federal OCS oil, gas, and sulphur permittees or notice filers.

Total Estimated Number of Annual Responses: 707 responses.

Total Estimated Number of Annual Burden Hours: 40,954 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: On occasion, annual, or as specified in permits.

Total Estimated Annual Nonhour Burden Cost: $175,044.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations to administer leasing of mineral resources on the OCS. The OCS Lands Act (43 U.S.C. 1340) states that ''any person authorized by the Secretary may conduct geological and geophysical explorations in the [O]uter Continental Shelf, which do not interfere with or

endanger actual operations under any lease maintained or granted pursuant to this subchapter, and which are not unduly harmful to aquatic life in such area.'' The section further provides that permits to conduct such activities may only be issued if it is determined that the applicant is qualified; the activities do not result in pollution or create hazardous or unsafe conditions; the activities do not unreasonably interfere with other uses of the area or disturb any site, structure, or object of historical or archaeological significance. Applicants for permits are required to submit form BOEM–0327—Application for Permit to Conduct Geological or Geophysical Exploration for Mineral Resources of Scientific Research on the Outer Continental Shelf, to provide the information necessary to evaluate their qualifications, and upon approval, respondents are issued a permit.

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and OMB Circular A–25 authorize Federal agencies to recover the full cost of services that confer special benefits. All G&G permits are subject to cost recovery, and BOEM regulations specify service fees for these requests.

Regulations to carry out these responsibilities are contained in 30 CFR part 551 and are the subject of this information collection renewal. BOEM uses the information to:

- Identify oil, gas, sulfur, and mineral resources in the OCS;
- ensure the receipt of fair value for mineral resources;
- ensure that the exploration activities do not cause harm to the environment or persons, or create unsafe operations and conditions, damage historical or archaeological sites, or interference with other uses;
- analyze and evaluate preliminary or planned drilling activities;
- monitor progress and activities in the OCS;
- acquire G&G data and information collected under a Federal permit offshore; and
- determine eligibility for reimbursement from the government for certain costs.

BOEM uses information collected to understand the G&G characteristics of oil- and gas-bearing physiographic regions of the OCS. The information aids the Secretary in obtaining a proper balance among the potential for environmental damage, the discovery of oil and gas, and associated impacts on affected coastal States.

In this renewal, BOEM is renewing form BOEM–0327—Application for Permit to Conduct Geological or Geophysical Exploration for Mineral Resources of Scientific Research on the Outer Continental Shelf. This form consists of the requirements for G&G activities requiring Permits and Notices, along with the application that the respondent submits to BOEM for approval, as well as a nonexclusive use agreement for scientific research, if applicable. The requirements portion of the form lets the respondents know the authority, requirements, along with other relevant information for the permit.

Upon BOEM approval of the application, respondents are issued a permit using form BOEM–0328, Permit to Conduct Geophysical Exploration for Mineral Resources of Scientific Research on the Outer Continental Shelf, for conducting geophysical exploration for mineral resources or scientific research, or form BOEM–0329, Permit to Conduct Geological Exploration for Mineral Resources of Scientific Research on the Outer Continental Shelf, for conducting geological exploration for mineral resources or scientific research. These permits are filled in by BOEM and do not incur a respondent hour burden.

We protect proprietary information in accordance with the Freedom of Information Act (5 U.S.C. 552) and the Department of the Interior's implementing regulations (43 CFR part 2), and under regulations at 30 CFR part 551.

We estimate the burden for this collection to be about 40,954 hours, and the non-hour burden costs to be $175,044. The following table details the individual components and respective hour burden estimates of this ICR.

Citation 30 CFR 551	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-Hour Cost Burdens*		
30 CFR 551.1 through 551.6				
551.4(a), (b); 551.5(a), (b), (d); 551.6; 551.7.	Apply for permits (form BOEM–0327) to conduct G&G exploration, including deep stratigraphic tests/revisions when necessary. Submit required information in manner specified.	1,000 AK**	4 Applications	4,000
		1,000 ATL**	9 Applications	9,000
		300 GOM	74 Applications	22,200
			87 Applications × $2,012 = $175,044	
551.4(b); 551.5(c), (d); 551.6.	File notices to conduct scientific research activities, including notice to BOEM prior to beginning and after concluding activities.	1	1 Notice	1
551.6(b) 551.7(b)(5)	Notify BOEM if specific actions occur; report archaeological resources (no instances reported since 1982). Consult with other users.	1	1 Notice	1
Subtotal			89 Responses	35,202 Hours
			$175,044 Non-Hour Cost Burden	

Citation 30 CFR 551	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-Hour Cost Burdens *		
30 CFR 551.7 through 551.9				
551.7; 551.8	Submit APD and Supplemental APD to BSEE	Burden included under BSEE regulations at 30 CFR 250, Subpart D (1014–0018)		0
551.7; 551.8(b)	Submit information on test drilling activities under a permit, including required information and plan revisions (e.g., drilling plan and environmental report).	1	1 Submission	1
551.7(c)	Enter into agreement for group participation in test drilling, including publishing summary statement; provide BOEM copy of notice/list of participants (no agreements submitted since 1989).	1	1 Agreement	1
551.7(d)	Submit bond(s) on deep stratigraphic test and required securities.	Burden included under 30 CFR Part 556 (1010–0006)		0
551.8(a)	Request reimbursement for certain costs associated with BOEM inspections (no requests in many years).	1	1 Request	1
551.8(b), (c)	Submit modifications to permits, and status/final reports on, activities conducted under a permit.	38 AK**	4 Respondents × 10 Reports = 40.	1,520
		38 ATL**	9 Respondents × 10 Reports = 90.	3,420
		2 GOM	55 Respondents × 3 Reports = 165.	330
551.9(c)	Notify BOEM to relinquish a permit	1/2	2 Notices	1
Subtotal			300 Responses	5,274
30 CFR 551.10 through 551.13				
551.10(c)	File appeals	Exempt under 5 CFR 1320.4(a)(2), (c).		0
551.11; 551.12	Notify BOEM and submit G&G data and/or information collected and/or processed by permittees, bidders, or 3rd parties, etc., including reports, logs or charts, results, analyses, descriptions, information as required, and agreements, in manner specified.	4	40 Submissions	160
551.13	Request reimbursement for certain costs associated with reproducing data/information.	2	40 Submissions	80
Subtotal			80 Responses	240
30 CFR 551.14				
551.14(a), (b)	Submit comments on BOEM intent to disclose data and/or information to the public.	1	2 Comments	2
551.14(c)(2)	Submit comments on BOEM intent to disclose data and/or information to an independent contractor/agent.	1	2 Comments	2
551.14(c)(4)	Contractor/agent submits written commitment not to sell, trade, license, or disclose data and/or information without BOEM consent.	1	2 Commitments	2
551.1–551.14	General departure and alternative compliance requests not specifically covered elsewhere in part 551 regulations.	1	2 Requests	2
Subtotal			8 Responses	8

Citation 30 CFR 551	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-Hour Cost Burdens *		
Extension for Permit Form & Recordkeeping				
551.14(b) (BOEM–0327)	Request extension of permit time period; enter agreements.	1	100 Extensions	100
	Retain G&G data/information for 10 years and make available to BOEM upon request.	1	130 Recordkeepers	130
Subtotal			230 Responses	230
Total Burden			707 Responses	40,954 Hours
			$175,044 Non-Hour Cost Burden	

* Fees are subject to modification per inflation annually.
** Burden hours for the frontier areas of the Alaska Region and Atlantic OCS are significantly higher because of NEPA and mitigation requirements. BOEM is accounting for the total time to compile/submit the necessary information to obtain the required authorizations to acquire a BOEM permit. There are currently no such activities ongoing in the Pacific OCS Region.

The authorities for this action are the OCS Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: August 25, 2017.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2017–18458 Filed 8–30–17; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Overpayment Detection and Recovery Activities

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Overpayment Detection and Recovery Activities,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before October 2, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1205-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Overpayment Detection and Recovery Activities information collection. Form ETA–227, Overpayment Detection and Recovery Activities, is the instrument by which the ETA collects the subject information on a quarterly basis from States. Form ETA 227 responses provide data on the number and amounts of fraud and non-fraud overpayments, the methods by which any overpayments were detected, the amounts and methods by which overpayments were collected, the amounts of overpayments waived and written off, the accounts receivable for the overpayments outstanding, and data on criminal/civil actions. Social Security Act section 303(a)(6) authorizes this information collection. *See* 26 U.S.C. 42 U.S.C. 503(a)(6).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0187.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on August 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 15, 2017 (82 FR 13855).

Interested parties are encouraged to send comments to the OMB, Office of

Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0187. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Overpayment Detection and Recovery Activities.

OMB Control Number: 1205–0187.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 212.

Total Estimated Annual Time Burden: 2,968 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: August 25, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–18475 Filed 8–30–17; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Retirement Income Security Act Prohibited Transaction Class Exemption 1981–8, Investment of Plan Assets in Certain Types of Short-Term Investments

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Employee Retirement Income Security Act Prohibited Transaction Class Exemption 1981–8, Investment of Plan Assets in Certain Types of Short-Term Investments,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before October 2, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1210-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the information collection requirements contained in Employee Retirement Income Security Act (ERISA) Prohibited Transaction Class Exemption (PTE) 1981–8, Investment of Plan Assets in Certain Types of Short-Term Investments, which permits the investment of ERISA covered plan assets that involve the purchase or other acquisition, holding, sale, exchange, or redemption by or on behalf of an employee benefit plan of certain types of short-term investments. The PTE requires two basic disclosure requirements. Both affect only the portion of the exemption dealing with repurchase agreements. The first requirement calls for the repurchase agreements between the seller and the plan to be in writing. The repurchase agreements have a duration of one year or less and may be in the form of a blanket agreement that covers the transactions for the year. The written agreement is intended to put the plan on notice of possible fees associated with the redemption of open-end mutual fund shares. The second requirement obliges the seller of such repurchase agreements to provide the most recent financial statements to the plan at the time of the sale and as the statements are issued. The seller must also represent, either in the repurchase agreement or prior to each repurchase agreement transaction, that, as of the time the transaction is negotiated, there has been no material adverse change in the seller's financial condition since the date the most recent financial statement was furnished that has not been disclosed to the plan fiduciary with whom the written agreement is made. Internal Revenue Code of 1986 section 4975(c) and ERISA section 408 authorize the information collection activities. *See* 26 U.S.C. 4975(c) and 29 U.S.C. 1108.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0061.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on August 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB

receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 22, 2017 (82 FR 23303).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0061. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Employee Retirement Income Security Act Prohibited Transaction Class Exemption 1981–8, Investment of Plan Assets in Certain Types of Short-Term Investments.

OMB Control Number: 1210–0061.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 82,664.

Total Estimated Number of Responses: 413,320.

Total Estimated Annual Time Burden: 103,330 hours.

Total Estimated Annual Other Costs Burden: $93,770.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: August 27, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–18476 Filed 8–30–17; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Interstate Arrangement for Combining Employment and Wages

ACTION: Notice of availability; request for comments.

SUMMARY: On August 31, 2017, the Department of Labor (DOL) will submit the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Interstate Arrangement for Combining Employment and Wages,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before October 2, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201707-1205-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Interstate Arrangement for Combining Employment and Wages (Reporting Form ETA–586) information collection that provides data necessary to measure the scope and effect of the program for combining employment and wages covered under the different State laws for the purpose of determining an unemployed worker's entitlement to workers' compensation and to monitor the performance of each State's payment and wage transfer performance. Internal Revenue Code of 1986 section 3304(a)(9)(B) authorizes this information collection. *See* U.S.C. 3304(a)(9)(B).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0029.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on August 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 15, 2017 (82 FR 13857).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0029. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Interstate Arrangement for Combining Employment and Wages.

OMB Control Number: 1205–0029.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 212.

Total Estimated Annual Time Burden: 848 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: August 26, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–18474 Filed 8–30–17; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the information collection request (ICR) titled, ''Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before October 2, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–DM, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the DOL Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery. The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations; provide an early warning of issues with service; or focus attention on areas where communication, training, or changes, in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between the DOL and its customers and stakeholders. The collections will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1225–0088.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on August 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice

published in the **Federal Register** on June 16, 2017 (82 FR 27725).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1225–0088. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–DM.

Title of Collection: Department of Labor Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1225–0088.

Affected Public: Individuals or Households; State Local, and Tribal Governments; and Private Sector—businesses or other for-profits, farms, and not for profit institutions.

Total Estimated Number of Respondents: 380,000.

Total Estimated Number of Responses: 380,000.

Total Estimated Annual Time Burden: 38,000 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: August 26, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–18480 Filed 8–30–17; 8:45 am]

BILLING CODE 4510–04–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 revision of the ''Telephone Point of Purchase Survey.'' 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 30, 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, at 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this survey is to develop and maintain a timely list of retail, wholesale, and service establishments where urban consumers shop for specified items. This information is used as the sampling universe for selecting establishments at which prices of specific items are collected and monitored for use in calculating the Consumer Price Index (CPI). The survey has been ongoing since 1980 and also provides expenditure data that allows items that are priced in the CPI to be properly weighted.

II. Current Action

Office of Management and Budget clearance is being sought for the Telephone Point of Purchase Survey.

Since 1997, the survey has been administered quarterly via a computer-assisted-telephone-interview. This survey is flexible and creates the possibility of introducing new products into the CPI in a timely manner. The data collected in this survey are necessary for the continuing construction of a current outlet universe from which locations are selected for the price collection needed for calculating the CPI. Furthermore, the TPOPS provides the weights used in selecting the items that are priced at these establishments. This sample design produces an overall CPI market basket that is more reflective of the prices faced and the establishments visited by urban consumers. TPOPS will complete the transition from the 1998 to the 2018 geographic redesign over the next several years, resulting in a reduction of the number of PSUs from 87 to 75 when fully implemented.

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: The Telephone Point of Purchase Survey.

OMB Number: 1220–0044.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or Households.

Total Respondents: 10,183.

Frequency: Quarterly.

Total Responses: 29,938.

Average Time per Response: 12.65 minutes.

Estimated Total Burden Hours: 6,312 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 August 2017.

Kimberley Hill,

Chief, Division of Management Systems.

[FR Doc. 2017–18444 Filed 8–30–17; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995 on the National Science Foundation Proposal and Award Policies and Procedures Guide. NSF 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.

Comments: 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 will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the 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.

DATES: Comments regarding these information collections are best assured of having their full effect if received October 2, 2017.

ADDRESSES: Comments should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton at *splimpto@nsf.gov.* Copies of the submission(s) may be obtained by calling 703–292–7556.

SUPPLEMENTARY INFORMATION: This is the second notice for public comment on plans to obtain OMB clearance for the Survey of Public Attitudes Toward and Understanding of Science and Technology (S&T Attitudes Survey); the first notice was published in the **Federal Register** at 82 FR 15240, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

Title of Collection: Survey of Public Attitudes Toward and Understanding of Science and Technology.

OMB Approval Number: 3145–NEW.

Summary of Collection: Established within the NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950, as amended, the National Center for Science and Engineering Statistics (NCSES) serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public. The Survey of Public Attitudes Toward and Understanding of Science and Technology (''S&T Attitudes Survey'') is part of this NCSES system, focused on public support for, understanding of, and attitudes toward science and technology. The S&T Attitudes Survey is conducted as one module of the General Social Survey (GSS), one of the three large, high quality social surveys funded under a grant by the National Science Foundation.

Use of the Information and Means of Dissemination: The S&T Attitudes Survey was established to gather high-quality data on public attitudes toward and understanding of science for the NCSES biennial publication, *Science and Engineering Indicators* (SEI). SEI is a congressionally mandated report on the status of the science and engineering enterprise in the United States, including comparisons with other countries. The ''Science and Technology: Public Attitudes and Understanding'' chapter of the report is dedicated to public understanding of and attitudes toward science and technology. These attitudes and understandings may influence students' decisions to pursue STEM careers, public support for funding scientific research, what technologies are adopted and how, and what public policies are put in place. It is expected that the information in Chapter 7 will be used by policymakers, journalists, government agencies, researchers, and the general public.

NSF will publish statistics from the survey in NCSES' SEI report and possibly in InfoBriefs that focus on particular research topics. SEI, Infobriefs, and data tables and figures will be made available electronically on the NSF Web site. Public use data files will also be developed and made freely available via the Internet.

Expected Respondents: GSS respondents are a probability sample of all noninstitutionalized English and Spanish speaking persons 18 years of age or older, living in the United States. The expected number of participants is 1,250.

Estimate of Burden: In the 2014 GSS data collection cycle, respondents took an average of 20 minutes to respond to the S&T Attitudes Survey module. This is not expected to change. In addition, while the target number of participants is 1,250, this can vary depending on the systematic assignment of GSS respondents to the S&T Attitudes Survey and patterns of non-response. No more than 1,313 participants are expected for the 2018 GSS. Thus, the total number of person-hours expected for the 2018 GSS is at most (20/60) * 1,313 or 438 hours.

Updates: Relative to the first **Federal Register** notice, there is one substantive change. The first notice described an older methodology. The current methodology is as follows. The sample is a multi-stage area probability sample. The geographical units employed are national frame areas (NFAs) which are comprised of Metropolitan Statistical

Areas (MSAs) and non-metropolitan counties. The sample is selected using the United States Postal Service postal delivery sequence file (DSF) and, where the DSF has poor coverage (90% or less), field listing. The 17 largest MSAs are included with certainty, while other NFAs are sampled with probability proportionate to size (PPS) and with implicit stratification by geographic and demographic characteristics. Within all selected NFAs, tracts or block groups are further selected with PPS and implicit stratification by additional geographic and demographic characteristics. The tertiary sampling units, addresses, are a random sample from the DSF or, alternatively, a field inventory of addresses. When a housing unit is visited by a field interviewer, one person is selected to be interviewed from the housing unit at random. Not all GSS respondents are given the S&T Attitudes survey, which is a module on the GSS. Which GSS respondents get the S&T Attitudes module is determined by systematic sampling conducted to ensure that each NFA and segment (tract or block group) in the sample has an equal number of S&T Attitudes surveys.

Dated: August 28, 2017.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2017–18472 Filed 8–30–17; 8:45 am]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81485; File Nos. SR–DTC–2017–008; SR–FICC–2017–014; SR–NSCC–2017–008]

Self-Regulatory Organizations; The Depository Trust Company; Fixed Income Clearing Corporation; National Securities Clearing Corporation; Order Approving Proposed Rule Changes To Adopt the Clearing Agency Model Risk Management Framework

August 25, 2017.

On June 20, 2017, The Depository Trust Company (''DTC''), Fixed Income Clearing Corporation (''FICC''), and National Securities Clearing Corporation (''NSCC,'' each a ''Clearing Agency,'' and collectively, ''Clearing Agencies'') filed with the Securities and Exchange Commission (''Commission''), proposed rule changes SR–DTC–2017–008, SR–FICC–2017–014, and SR–NSCC–2017–008 (collectively, the ''Proposed Rule Changes''), respectively, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Changes were published for comment in the **Federal Register** on July 11, 2017.[3] The Commission did not receive any comment letters on the Proposed Rule Changes. For the reasons discussed below, the Commission approves the Proposed Rule Changes.

I. Description of the Proposed Rule Changes

The Proposed Rule Changes would adopt the Clearing Agency Model Risk Management Framework (''Framework''), which would set forth the model risk management practices adopted by the Clearing Agencies. Although the Framework would be a rule of each Clearing Agency, the Proposed Rule Changes do not require any changes to the Rules, By-Laws and Organizational Certificate of DTC, the Rulebook of GSD, the Clearing Rules of MBSD,[4] or the Rules & Procedures of NSCC, as the Framework would be a standalone document for each Clearing Agency.

In general, the Framework would describe the model risk management practices adopted by the Clearing Agencies. The Framework is designed to help identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The Framework would describe (i) governance of the Framework; (ii) key terms; (iii) model inventory procedures; (iv) model validation procedures; (v) model approval process; and (vi) model performance procedures.

A. Governance of the Framework

The Framework would outline the Clearing Agencies' governance of the Framework itself. The Framework would be owned and managed by (i) the Clearing Agencies' risk management area generally responsible for model validation and control matters, (ii) the DTCC Model Validation and Control Group (''MVC''),[5] and (iii) senior management and the Board of Directors of each Clearing Agency (''Boards''), which would have review and oversight authority.[6]

The Framework would provide that (i) any change to the Framework must be approved by the Boards or such committees as may be delegated authority by the Boards, from time to time, pursuant to the Boards' charters, (ii) MVC shall review this Framework no less frequently than annually, and (iii) any and all changes to this Framework are subject to regulatory review and approval.[7]

B. Key Terms

The Framework would define two key terms: Model and Model Risk. The term ''Model'' would refer to a quantitative method, system, or approach that applies statistical, economic, financial, or mathematical theories, techniques, and assumptions to process input data into quantitative estimates.[8] A Model would consist of three components: (1) An information input component, which would deliver assumptions and data to the Model; (2) a processing component, which would transform inputs into estimates; and (3) a reporting component, which would translate the estimates into useful business information.[9] A Model also would cover quantitative approaches whose inputs are partially or wholly qualitative or based on expert judgment, provided that the output is quantitative in nature.[10]

The term ''Model Risk'' would refer to the potential for adverse consequences from decisions based on incorrect or misused Model outputs and reports, and primarily occurring due to (i) fundamental errors in the design or development of Models; (ii) incorrect Model input or assumptions; (iii) erroneous implementation of Models; (iv) unauthorized or incorrect changes to Models; (v) changes in market conditions rendering existing Models

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 81074 (July 5, 2017), 82 FR 32030 (July 11, 2017) (SR–DTC–2017–008; SR–FICC–2017–014; SR–NSCC–2017–008) (''Notice'').

[4] *Available at http://www.dtcc.com/en/legal/rules-and-procedures.* FICC is comprised of two divisions: The Government Securities Division (''GSD'') and the Mortgage-Backed Securities Division (''MBSD''). Each division serves as a central counterparty, becoming the buyer and seller to each of their respective members' securities transactions and guarantying settlement of those transactions, even if a member defaults. GSD provides, among other things, clearance and settlement for trades in U.S. Government debt issues. MBSD provides, among other things, clearance and settlement for trades in mortgage-backed securities. GSD and MBSD maintain separate sets of rules, margin models, and clearing funds.

[5] The parent company of the Clearing Agencies is The Depository Trust & Clearing Corporation (''DTCC''). DTCC operates on a shared services model with respect to the Clearing Agencies. Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides a relevant service to a Clearing Agency. Notice, 82 at 32031.

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.; see* Supervisory Guidance on Model Risk Management, SR Letter 11–7, dated April 4, 2011, issued by the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency, at 3.

unfit for their intended purpose; and (vi) misuse of or overreliance on Models.[11] The Framework would state that it is designed to minimize the Clearing Agencies' potential for financial loss, inaccurate financial or regulatory reporting, misaligned business strategies, or damage to their respective reputations resulting from a failure to properly manage Model Risk.[12]

C. Model Inventory Procedures

The Framework would describe the Clearing Agencies' Model inventory procedures. All Clearing Agency Models would be subject to tracking for monitoring purposes within each Clearing Agency (''Model Inventory'').[13] The Framework would describe how a Model Inventory survey is conducted at least annually across the Clearing Agencies to confirm that the Model Inventory is current.[14] During this survey period, all Clearing Agency business areas and support functions that intend to develop a model (for Clearing Agency use) would submit a list of their planned models to MVC in order for MVC to conclude whether they meet the definition of Model under the Framework.[15]

The Framework would outline how MVC would assign a materiality/complexity index rating to each Model when it is added to a Model Inventory, which would impact the Model's prioritization and authority required for approval.[16] All Model materiality/complexity index assignments would be reviewed at least annually by MVC, as well as by the committee specifically created by the Clearing Agencies to address Model Risk governance matters, the DTCC Model Risk Governance Committee (''MRGC'').[17]

The Framework would further describe the initial and periodic validation protocols that would be applicable to all Models in the Model Inventory (''Model Validation'').[18] The Framework would state that all Model Validations would be performed by qualified persons who are free from influence from the persons responsible for the development or operation of the Models being validated.[19] MVC, which is responsible for performing all Model Validations, is functionally separate from all Clearing Agency areas that develop or operate Models.[20] The head of MVC directly reports to the head of the DTCC Group Chief Risk Office, rather than to anyone that is in charge of developing or operating Models for the Clearing Agencies.[21]

D. Model Validation Procedures

The Framework would describe the Clearing Agencies' Model Validation procedures. Each new Model would undergo a full Model Validation unless provisionally approved.[22] The Framework would state that a full Model Validation would be applied (i) to all new Models prior to their use in production; (ii) during periodic Model Validations; and (iii) when Model changes are made that require an independent Model Validation.[23]

The Framework would provide that the DTCC Quantitative Risk Management Financial Engineering Unit, which is functionally separate from MVC, would be responsible for developing, testing, and signing-off on new Clearing Agency Models and enhancements to existing Clearing Agency Models before submitting any such Model to MVC for Model Validation and approval.[24]

The Framework would state that an active Model may require changes in either structure or technique.[25] Details for any Model change request would be provided to MVC for review and a determination of whether full Model Validation is required.[26] The Framework would describe that MVC would perform a Model Validation for each Clearing Agency Model approved for use in production not less than annually (or more frequently as may be contemplated by such Clearing Agency's established risk management framework), including each credit risk Model, liquidity risk Model, and in the case of FICC and NSCC, as central counterparties (''CCPs''), on their margin systems and related Models.[27]

In conducting a full Model Validation, MVC would verify that the Model is performing as expected in accordance with its design objectives and business purpose. The full Model Validation standards for any new Model would include, but not be limited to:

- Evaluation of the Model development documentation and testing;
- evaluation of Model theory and assumptions, and identification of potential limitations;
- evaluation of data inputs and parameters;
- review of numerical implementation including replication for certain key Model components, which would vary from Model to Model;
- independent testing, with respect to sensitivity analysis, stress testing, and benchmarking, as appropriate; and
- evaluation of Model outputs, Model performance, and backtesting.[28]

The Framework would provide that all Models approved for use in production also would be subject to periodic Model Validations for purposes of confirming that the Models continue to operate as intended, identifying any deficiencies that would call into question the continuing validity of any such Model.[29] The Framework would further provide that periodic Model Validations would generally use the same standards as an initial Model Validation.[30] In certain cases, MVC may determine extra Model Validation activities are warranted based on previous Model Validation work and findings, changes in market conditions, or because a particular Model warrants extra validation.[31]

The Framework would provide that MVC would centrally track all findings from (i) a new Model Validation; (ii) a change in Model Validation; (iii) a periodic Model Validation; or (iv) the implementation of a new Model or Model change.[32] The status of any changes to address a finding for approved Models would be reported to the MRGC on a monthly basis.[33] If a finding is related to Model implementation errors, the persons responsible for the development or operation of the Model (''Model Owner'') would report such findings, incidents, or both in accordance with the policies and procedures of the Operational Risk Management unit (''ORM'') within the Group Chief Risk Office.[34] If an adverse Model Validation finding cannot be resolved, the Model Owner would work with MVC and ORM to submit the finding for risk acceptance in accordance with ORM policies and procedures.[35]

[11] Notice, 82 at 32031.
[12] *Id.*
[13] *Id.*
[14] Notice, 82 at 32031–32.
[15] Notice, 82 at 32032.
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] *Id.*
[35] *Id.*

E. Model Approval Process

The Framework would outline the approval process applicable to all new Models. All new Clearing Agency Models, and all material changes to existing Clearing Agency Models, would undergo Model Validation by MVC and must be approved prior to business use.[36] If the Model's materiality is ''Medium'' or ''High,'' such Model Validation would be reviewed by the MRGC and recommended by the MRGC to the Clearing Agencies' management level committee responsible for Model Risk management matters, the Management Risk Committee (''MRC''), for approval.[37]

Regarding any proposed change to any backtesting methodology, prior to implementation thereof (and before any reporting thereof in any management and regulatory report), the Framework would provide that a description of the proposed change and impact study results would be presented to the MRGC for review and approval.[38] If the impact study results reflect that implementation of the methodology would negatively impact any existing risk tolerance threshold range, such results would be escalated by the MRGC to the MRC, and subsequently to the Board Risk Committee (''BRC''), for approval prior to implementation.[39]

The Framework would provide that provisional approvals with respect to new Clearing Agency Models and material changes to existing Clearing Agency Models may be issued to allow a Model to be published for urgent business use prior to MVC's Model Validation.[40] Provisional approval requests for a Model along with appropriate control measures would be presented by the applicable Model Owners to MVC and the MRGC for review.[41] The Framework would provide that Models would be provisionally approved by MVC for a limited period, not to exceed six months unless also approved by the MRGC.[42] MVC would track all such provisional approvals and oversee compliance with control measures and provisional approval periods.[43]

The Framework would state that each periodic Model Validation would be presented to the MRGC for its review, and its recommendation for approval to the MRC.[44] The Framework would further provide that MRC approval must be obtained in order for any such periodic validation to be deemed complete.[45]

F. Model Performance Procedures

The Framework would state that MVC would be responsible for Model performance monitoring and for each Clearing Agency's backtesting process.[46] The MRGC would be the primary forum for MVC's regular reporting of Model Validation activities and material Model Risks identified through regular Model performance monitoring.[47] Reports and recommendations with respect to Model Risk management would be made to the MRC.[48]

The Framework would describe that periodic reporting to the BRC of each Clearing Agency with regard to Model Risk matters may include:

- Updates of Model Validation findings and the status of annual validations;
- updates on significant Model Risk matters, and on compliance matters with respect to Model Risk policies and procedures (including the Framework); and
- escalation of Model Risk matters as set forth in the market risk tolerance statement, which establishes the Clearing Agencies' Model Risk tolerances (''Market Risk Tolerance Statement''), and subsequent, regular updates with respect thereto.[49]

The Framework would provide that MVC would prepare Model performance monitoring reports on both a monthly and daily basis.[50] On a monthly basis, MVC would (i) perform sensitivity analysis on each of the CCP's margin Model, (ii) review the key parameters and assumptions for backtesting, and (iii) consider modifications to ensure the backtesting practices of FICC and NSCC, as CCPs, are appropriate for determining the adequacy of the applicable CCP's margin resources.[51]

The Framework would state that MRGC would review the Model performance monitoring, which includes review of risk-based Models used to calculate margin requirements and relevant parameters/threshold indicators, sensitivity analysis, and Model backtesting results.[52] Serious performance concerns would be escalated to the MRC.[53]

The Framework would further state that, in circumstances where the products cleared or the markets served by one or both of the CCPs display high volatility or become less liquid, or when the size or concentration of positions held by the applicable CCP's members increases or decreases significantly, such sensitivity analysis and review of key Model parameters and assumptions would be conducted more frequently than monthly.[54]

The Framework would provide that VaR and Clearing Fund requirement (''CFR'') coverage backtesting for the CCPs would be performed by MVC on a daily basis or more frequently.[55] CFR coverage would be backtested on an overall basis and for individual members and families of affiliated members.[56] DTC backtesting would be performed by MVC on a daily basis for collateral group [57] collateral monitor coverage, collateral group level haircut [58] coverage, and security-level haircut coverage.[59] The Framework would provide that thresholds for all backtests would be established for the rolling 12-month period coverage and calculated as the number of instances without deficiency over the total number of backtest instances, where deficiency is defined as the loss amount that exceeds the measure being tested (*i.e.,* VaR, CFR, collateral monitor, or

[36] *Id.*

[37] *Id.*

[38] *Id.*

[39] *Id.*

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] *Id.*

[46] *Id.* The Clearing Agencies define Model performance monitoring is the process of (i) evaluating an active Model's ongoing performance based on theoretical tests, (ii) monitoring the Model's parameters through the use of threshold indicators, and/or (iii) backtesting using actual historical data/realizations to test a Value at Risk (''VaR'') Model's predictive power.

[47] Notice, 82 at 32033.

[48] *Id.*

[49] *Id.*

[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] *Id.*

[54] *Id.*

[55] *Id.* To mitigate default risk, FICC and NSCC collect funds from their members to maintain sufficient financial resources in the event a member or members default on their obligations. Those funds are held by FICC and NSCC in their respective Clearing Funds. As compared to the CFR, VaR Model backtesting tests Model performance at a specified confidence level, while the CFR backtesting tests margin sufficiency in case of a member default.

[56] Notice, 82 at 32033.

[57] A DTC Participant with multiple accounts may group its accounts into ''families'' (*i.e.,* ''collateral groups'') and instruct DTC to allocate a specified portion of its overall Collateral Monitor and Net Debit Cap to each family. All accounts that a Participant designates as belonging to a common collateral group share a single Collateral Monitor and single Net Debit Cap. *See* Securities Exchange Act Release No. 38201 (January 23, 1997), 62 FR 4561 (January 30, 1997) (SR–DTC–96–17).

[58] A haircut represents a percentage decrease applied to a Security's Market Value solely for purposes of determining the collateral value of the Security. *See* DTC Settlement Service Guide, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Settlement.pdf,* at 5.

[59] Notice, 82 at 32033.

haircut rate). Thresholds would be set as follows:[60]

Applicable to	Backtesting risk metrics	Threshold (%)
CCPs (FICC and NSCC)	Overall CFR Coverage	99
	VaR Model Coverage	99
	Member Level CFR Coverage	99
	Family Level CFR Coverage	99
DTC	Collateral Group Collateral Monitor Coverage	99
	Collateral Group Level Haircut Coverage	99
	Security-Level Haircut Coverage	95

The Framework would provide that the CFR coverage thresholds for FICC and NSCC would be based on applicable regulatory requirements that require them, as CCPs, to cover their credit exposure to their participants by establishing a risk-based margin system that, among other things calculates margin sufficient to cover their potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default.[61] As for DTC, which is not a CCP, the Framework would provide that the collateral group collateral monitor coverage threshold, among other controls, would be set to support the requirement that DTC maintain sufficient financial resources to cover its credit exposures to each participant fully with a high degree of confidence.[62] Meanwhile, the ''VaR Model Coverage,'' ''Collateral Group Level Haircut Coverage,'' and ''Security-Level Haircut Coverage'' would be set and designed for Model performance monitoring purposes.[63]

The Framework would provide that, on at least a monthly basis, the key metrics relating to Model backtesting would be reviewed by the Market and Liquidity Risk Management unit within the Group Chief Risk Office and MVC, and reported to the MRC.[64] Threshold breaches would be reviewed by the Managing Directors within the Financial Risk Management area (including the Market and Liquidity Risk Management unit) of the Group Chief Risk Office, and in the case of CFR coverage breaches by the CCPs and collateral group collateral monitor coverage by DTC, escalated to the BRC in accordance with the Market Risk Tolerance Statement.[65]

The Framework would state that the Managing Director of the Market and Liquidity Risk Management unit within the Group Chief Risk Office would be responsible for reviewing the Market Risk Tolerance Statement at least annually.[66] The BRC would review and approve the Market Risk Tolerance Statement at least annually.[67]

The Framework would provide that all Model performance concerns would be escalated by MVC to the MRGC, including Model performance enhancement concerns.[68] The MRGC may further recommend certain such matters for further escalation to the MRC, the BRC, or both.[69]

II. Discussion of Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization.[70] After carefully considering the Proposed Rule Changes, the Commission finds that the Proposed Rule Changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Clearing Agencies. In particular, the Commission believes the proposal is consistent with Section 17A(b)(3)(F) of the Act,[71] as well as Rules 17Ad–22(e)(4)(vii), 17Ad–22(e)(6)(vi) and (vii), and 17Ad–22(e)(7)(vii) thereunder.[72]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody and control of the Clearing Agencies or for which they are responsible.[73]

The Commission believes that by establishing and describing in the proposed Framework (i) governance of the Framework; (ii) key terms; (iii) Model Inventory procedures; (iv) Model Validation procedures; (v) Model approval process; and (vi) Model performance procedures, as described above, the proposal is designed to help safeguard securities and funds in the Clearing Agencies' custody and control. Specifically, the comprehensive nature of the practices described in the Framework, both individually and collectively, are designed to help improve the Clearing Agencies' ability to determine and evaluate the risk presented by many of the Clearing Agencies' members by measuring, monitoring, and managing the risks from using quantitative Models. Clearly documenting the Clearing Agencies' ability to evaluate risk in the proposed Framework could enable the Clearing Agencies to deploy more effectively their risk management tools to manage the credit, market, and liquidity risks presented by such members. By enabling the Clearing Agencies to use their risk management tools more effectively, the proposed Framework is designed to help mitigate the risk that the Clearing Agencies would suffer a loss from a member default. Therefore, the Commission believes that these Proposed Rule Changes are designed to help safeguard funds within the Clearing Agencies' custody and control, consistent with Section 17A(b)(3)(F) of the Act.[74]

B. Consistency With Rule 17Ad–22(e)(4)(vii)

The Commission believes that the changes proposed in the Proposed Rule Changes are consistent with Rule 17Ad–22(e)(4)(vii) under the Act, which

[60] *Id.*

[61] *Id.; see* 17 CFR 240.17Ad–22(e)(6)(iii). 17 CFR 240.17Ad–22(a)(13) defines the term ''potential future exposure'' to mean the maximum exposure estimated to occur at a future point in time with an established single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure.

[62] Notice, 82 at 32033.

[63] *Id.*

[64] Notice, 82 at 32034.

[65] *Id.*

[66] *Id.*

[67] *Id.*

[68] *Id.*

[69] *Id.*

[70] 15 U.S.C. 78s(b)(2)(C).

[71] 15 U.S.C. 78q–1(b)(3)(F).

[72] 17 CFR 240.17Ad–22(e)(4)(vii), (e)(6)(vi) and (vii), and (e)(7)(vii).

[73] 15 U.S.C. 78q–1(b)(3)(F).

[74] *Id.*

requires, in part, that the Clearing Agencies establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage their credit exposures to participants and those arising from their payment, clearing, and settlement processes by performing a Model Validation for their credit risk Models not less than annually or more frequently as may be contemplated by the Framework.[75]

As discussed above, the Framework would provide for validation of quantitative credit-risk Models. The Framework would describe the procedures for conducting a Model Inventory to determine which Models should be reviewed. The Framework would then describe the process for reviewing such Models, before they are implemented, so that the Clearing Agencies can ensure that their credit exposures are effectively and efficiently modeled. The Framework would further describe the validation process for the review of existing quantitative credit-risk Models to determine whether the Models accurately capture the Clearing Agencies' credit exposures, which would be performed not less than annually. Because the proposal is designed to meet the requirements of Rule 17Ad–22(e)(4)(vii) by establishing the proposed Framework for performing a Model Validation for the Clearing Agencies' credit risk Models, the Commission believes the Proposed Rule Changes are consistent with Rule 17Ad–22(e)(4)(vii) under the Act.[76]

C. Consistency With Rule 17Ad–22(e)(6)(vi) and (vii)

The Commission believes that the changes proposed in the Proposed Rule Changes are consistent with Rules 17Ad–22(e)(6) under the Act, specifically paragraphs (vi) and (vii) thereunder, as discussed below.[77]

Rule 17Ad–22(e)(6)(vi) under the Act requires, in part, that the Clearing Agencies that provide CCP services (*i.e.,* FICC and NSCC) establish, implement, maintain and enforce written policies and procedures reasonably designed to cover their credit exposures to their participants by establishing a risk-based margin system that at minimum is monitored by management on an ongoing basis and is regularly reviewed, tested, and verified by (A) conducting backtests of their margin Models at least once each day using standard predetermined parameters and assumptions; (B) conducting a sensitivity analysis of their margin Models and a review of their parameters and assumptions for backtesting on at least a monthly basis, and considering modifications to ensure the backtesting practices are appropriate for determining the adequacy of the their margin resources; (C) conducting a sensitivity analysis of their margin Models and a review of their parameters and assumptions for backtesting more frequently than monthly during periods of time when the products cleared or markets served display high volatility or become less liquid, or when the size or concentration of positions held by their participants increases or decreases significantly; and (D) reporting the results of their analyses to appropriate decision makers at the clearing agencies, including but not limited to, their risk management committee or board of directors, and using these results to evaluate the adequacy of and adjust their margin methodology, Model parameters, and any other relevant aspects of their credit risk management framework.[78]

As discussed above, the Framework would provide that FICC and NSCC, as CCPs, would (a) perform VaR and CFR backtesting on a daily basis using standard predetermined parameters and assumptions; (b) as part of Model performance monitoring, on at least a monthly basis, perform sensitivity analysis on each of the margin Models of FICC and NSCC, review the key parameters and assumptions for backtesting, and consider modifications to ensure the backtesting practices of FICC and NSCC are appropriate for determining the adequacy of the applicable CCP's margin resources; (c) in circumstances where the products cleared or the markets served by FICC, NSCC, or both display high volatility or become less liquid, or when the size or concentration of positions held by the applicable CCP's members increases or decreases significantly, conduct sensitivity analysis and review of key Model parameters and assumptions more frequently than monthly; and (d) report the results of their analyses under (b) and (c) to key decision makers, including but not limited to, the MRC, the BRC, or both, which could use these results to evaluate the adequacy of and adjust their margin methodology, Model parameters, and any other relevant aspects of their credit risk management framework. By establishing the proposed Framework for a risk-based margin system to help cover the credit exposures of FICC and NSCC, as CCPs, that, at minimum, is monitored by management on an ongoing basis and is designed to address each of the enumerated requirements of Rule 17Ad–22(e)(6)(vi), the Commission believes the Proposed Rule Changes are consistent with Rule 17Ad–22(e)(6)(vi).[79]

Rule 17Ad–22(e)(6)(vii) under the Act requires, in part, that the Clearing Agencies that provide CCP services (*i.e.,* FICC and NSCC) establish, implement, maintain and enforce written policies and procedures reasonably designed to cover their credit exposures to their participants by establishing a risk-based margin system that at minimum requires a model validation for their margin systems and related models to be performed not less than annually, or more frequently as may be contemplated by their risk management framework.[80]

As discussed above, the Framework would describe FICC and NSCC's processes for determining which Models they should validate, including margin risk Models. After determining which Models to validate, FICC and NSCC would use the Model Validation processes for their margin systems and related Models, which would be performed not less than annually. In certain cases, FICC and NSCC may determine extra Model Validation activities are warranted based on previous Model Validation work and findings, changes in market conditions, or because a particular Model warrants extra validation. Because the proposal is designed to meet the requirements of Rule 17Ad–22(e)(6)(vii) by establishing the proposed Framework for a risk-based margin system to help cover the credit exposures of FICC and NSCC, as CCPs, that, at minimum, requires a Model Validation for the their margin systems and related Models to be performed not less than annually, the Commission believes the Proposed Rule Changes are consistent with Rule 17Ad–22(e)(6)(vii).[81]

D. Consistency With Rule 17Ad–22(e)(7)(vii)

The Commission believes that the changes proposed in the Proposed Rule Changes are consistent with Rule 17Ad–22(e)(7)(vii) under the Act, which requires, in part, that the Clearing Agencies establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the Clearing Agencies,

[75] 17 CFR 240.17Ad–22(e)(4)(vii).

[76] *Id.*

[77] 17 CFR 240.17Ad–22(e)(6).

[78] 17 CFR 240.17Ad–22(e)(6).

[79] *Id.*

[80] 17 CFR 240.17Ad–22(e)(6)(vii).

[81] *Id.*

including measuring, monitoring, and managing their settlement and funding flows on an ongoing and timely basis, and their use of intraday liquidity by performing a Model Validation of their liquidity risk Models not less than annually or more frequently as may be contemplated by their risk management framework.[82]

As discussed above, the Framework would describe the Clearing Agencies' process for determining which Models they should validate, including liquidity risk Models. After determining which Models to validate, the Clearing Agencies would use the Model Validation processes for their margin systems and related Models, which would be performed not less than annually. In certain cases, the Clearing Agencies may determine extra Model Validation activities are warranted based on previous Model Validation work and findings, changes in market conditions, or because a particular Model warrants extra validation. Because the proposal is designed to meet the requirements of Rule 17Ad–22(e)(7)(vii) by establishing the proposed Framework to help measure, monitor, and manage the Clearing Agencies' settlement and funding flows on an ongoing and timely basis, and the Clearing Agencies' use of intraday liquidity by performing a Model Validation of their liquidity risk Models not less than annually, the Commission believes the Proposed Rule Changes are consistent with Rule 17Ad–22(e)(7)(vii) under the Act.[83]

III. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Changes are consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act[84] and the rules and regulations promulgated thereunder. *It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that proposed rule changes SR–DTC–2017–008, SR–FICC–2017–014, and SR–NSCC–2017–008 be, and hereby are, *approved.*[85]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[86]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18448 Filed 8–30–17; 8:45 am]

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[82] 17 CFR 240.17Ad–22(e)(7)(vii).

[83] *Id.*

[84] 15 U.S.C. 78q–1.

[85] In approving the Proposed Rule Changes, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[86] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81487; File No. SR–LCH SA–2017–006]

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Options on Index Credit Default Swaps

August 25, 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, August 18, 2017, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by LCH SA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

LCH SA is proposing to amend its (i) CDS Clearing Rule Book (the ''Rule Book''), (ii) CDS Clearing Supplement (the ''Clearing Supplement''), (iii) CDS Clearing Procedures (the ''Procedures''), and (iv) CDS Dispute Resolution Protocol (the ''Dispute Resolution Protocol''), to incorporate terms and to make conforming and clarifying changes to allow options on index credit default swaps (''CDS'') to be cleared by LCH SA.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA 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. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to revise LCH SA's rules and procedures to allow LCH SA to clear options on index CDS. An option on index CDS is a contract that gives the option buyer the right (and not the obligation) to enter into a specified index CDS contract (*i.e.,* the underlying) with the option seller at a predefined exercise price called the strike. Upon the launch of clearing options on index CDS, LCH SA will provide central counterparty services for options on index CDS that are accepted for clearing and become the option seller for each option buyer and the option buyer for each option seller with respect to an option on index CDS novated by LCH SA.

The terms of the option contract on index CDS will provide the buyer the right to sell or buy protection on the underlying index CDS at expiry of the option. The index CDS resulting from the exercise of the option will be automatically cleared by LCH SA as the central counterparty. A credit event (including a restructuring event) may occur with respect to a constituent of an underlying index. If the credit event occurs before the option expiry, such credit event may affect the option buyer's decision regarding whether to exercise the option upon expiry. On the other hand, if a credit event occurs after the buyer has exercised the option, a cleared index CDS contract has been created from the option exercise and the situation would be the same as a credit event occurring to any other index CDS contract currently cleared by LCH SA.

Initially, LCH SA proposes to include European index CDS currently cleared by CDSClear as the underlying, *i.e.,* CDS on Markit iTraxx Europe Index and iTraxx Crossover Index, and may subsequently extend the underlying to include other index CDS contracts cleared by LCH SA, such as CDS on iTraxx Senior Financial Index, CDX NA IG, and CDX NA HY, subject to additional regulatory approvals, if necessary.

Each of the changes is described in further detail below.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used but not defined herein shall have the meaning specified in the Rule Book, Clearing Supplement, Procedures, and Dispute Resolution Protocol, as applicable.

i. Rule Book

a. Changes to Definitions

The Rule Book would be amended to add several new defined terms in order to accommodate the addition of options on index CDS to LCH SA's CDSClear services. Specifically, LCH SA proposes to add a definition for ''Index Swaptions'' as transactions which give the buyer the right to enter into a CDS referencing a portfolio of Reference Entities specified in a CDS index with a seller. The defined term ''Index Swaption Buyer'' would be added in the Rule Book to mean a Clearing Member that is party to an Index Swaption Cleared Transaction as buyer, and the term ''Index Swaption Seller'' would be added in the Rule Book to mean a Clearing Member that is party to an Index Swaption Cleared Transaction as seller. The defined term ''Index Swaption Cleared Transaction'' would be added in the Rule Book, and defined by reference to the Supplement (described below), to mean a Cleared Transaction which gives Swaption Buyer the right to enter into a specified Underlying Index Transaction with Swaption Seller. The term ''Index Swaption Cleared Transaction Confirmation'' would also be added to the Rule Book, and defined by reference to the Clearing Supplement, to mean for any Index Swaption Cleared Transaction in respect of which the Underlying Index Transaction references a Series and versions of the Markit iTraxx Europe Index, the form of confirmation which incorporates the iTraxx Swaption Standard Terms Supplement, as completed by reference to the relevant transaction, or such other form confirmation as may be adopted from time to time in accordance with the terms of the Rule Book. For the avoidance of doubt, the extension of the CDS Clearing Service to the clearing of swaptions referencing indices other than the Markit iTraxx Europe Index would require additional amendments to the CDS Clearing Supplement. Amendments to the to the Rule Book, the Procedures, and other risk methodology documentation could also be required to reflect risk changes applicable to the clearing of such new products. The defined term ''Index Swaption Clearing Service'' would be added to refer to the CDS Clearing Service to which a Clearing Member would elect to be registered under in order to be permitted to submit Index Swaptions for clearing by LCH SA. The term ''Premium'' would also be added to the Rule Book and defined by reference to the 2006 International Swaps and Derivatives Association (''ISDA'') definitions, which are also incorporated into the Rule Book definitions, to describe the premium paid in respect of Index Swaptions and, relatedly, Article 1.2.9.2 would be modified to specify that the payment of ''Premium'' to the relevant Index Swaption Seller is within the scope of obligations that LCH SA undertakes to perform as central counterparty.

Definitions for ''CDS Intraday Transaction,'' which would mean a CDS which has been entered into between two ATSS Participants and submitted for clearing through an Approved Trade Source System, and ''Index Swaption Intraday Transaction,'' which would mean an Index Swaption which has been entered into between two ATSS Participants and submitted for clearing through an Approved Trade Source System, would be added to clarify the distinction for the novation process applicable to CDS Intraday Transactions and Index Swaption Intraday Transactions set forth in Article 3.1.6.1 (described below).

The term ''Exercise Cleared Transaction'' would be added to the Rule Book, and defined by reference to the Clearing Supplement, to mean each Index Swaption Cleared Transaction (including each Swaption Restructuring Cleared Transaction, as applicable) forming part of a matched pair as part of the creation of a Cleared Transaction in the context of the exercise process. A definition for ''Swaption Restructuring Cleared Transaction'' would be added to the Rule Book, and defined by reference to the Clearing Supplement, to mean a Cleared Transaction created as a result of a Restructuring Credit Event. The term ''Exercise Notice'' would also be added to the Rule Book, and defined by reference to the Clearing Supplement, as the notice of exercise (in whole or in part) given by the Swaption Buyer to the Swaption Seller in accordance with Section 13.2 (Procedure for Exercise) of the 2006 Definitions. The term ''EMP Creation Period'' would be added to the Rule Book, and defined by reference to the Clearing Supplement, to mean the period from (and including) the final Transaction Business Day of the calendar week immediately preceding the week in which the Expiration Date falls to (but excluding) the Transaction Business Day immediately preceding the Expiration Date.

The Rule Book would also include a reference for the definition of ''Swaption Type,'' which, as defined in the Clearing Supplement, would mean a class of Index Swaption Cleared Transactions that are identical as to their terms (including, without limitation, as to the terms of the Underlying Index Transaction to which such Index Swaption Cleared Transactions relates), except in respect of trade date, notional amount, Premium, and Premium Payment Date and identity of the relevant Swaption Buyer and Swaption Seller.

The definition of ''LCH Settlement Price'' would be added to the Rule Book to account for the end-of-day pricing procedures added for Index Swaptions, as described below.

The substance of certain existing defined terms in the Rule Book would also be modified to incorporate terms for Index Swaptions. The definitions of ''CCM Cleared Transaction'' (*i.e.,* a CDS or an Index Swaption between LCH SA and a CCM acting either in its own name and for its own account (in respect of a House Cleared Transaction) or as commissionaire in its own name and for the account of a Client (in respect of a Client Cleared Transaction)) and ''FCM Cleared Transaction'' (*i.e.,* A CDS or an Index Swaption between LCH SA and an FCM Clearing Member as agent for the account of an FCM Client registered in the relevant FCM Client Trade Account of such FCM Clearing Member, or as principal for its own account, registered in the FCM House Trade Account of such FCM Clearing Member), would be amended to make clear that a CCM Cleared Transaction or an FCM Cleared Transaction, in addition to a CDS, would include an Index Swaption between LCH SA and a CCM or FCM Clearing Member, as applicable. The definition has been also amended to specify that a CCM Cleared Transaction or an FCM Cleared Transactions could also result from the creation of (x) an ''Exercise Cleared Transaction'' or (y) a ''Swaption Restructuring Cleared Transaction,'' as described above. The definition of ''End of Day Contributed Price'' would be amended to distinguish end of day pricing for CDS (which is based upon, among other things, price/spread data provided by the Index Publisher) and Index Swaptions (which would be based upon, among other things, a clearing price determined by LCH SA), as described below. The definition of ''House Trade Leg'' would be amended to include any trade leg of an Index Swaption in respect of which a Clearing Member acts as Index Swaption buyer or Index Swaption seller. Similarly, the definition of ''Client Trade Leg'' would be modified to include any trade leg of an Index Swaption in respect of which a Client acts as Index Swaption buyer or Index Swaption seller.

The following defined terms in Chapter 1, Section 1.1.1 would also include conforming changes for Index

Swaptions: ''Cash Payment,'' ''CDS Buyer,'' ''CDS Clearing Documentation,'' ''CDS Clearing Service,'' ''CDS Client Clearing Agreement,'' ''CDS Client Clearing Services,'' ''CDS Seller,'' ''Extreme Market Developments,'' ''Index Publisher,'' ''Intraday Transaction,'' and ''Payment Failure,'' and ''Product Family.''

In addition to the foregoing changes, various other conforming and clarifying changes would be made throughout Title I (General Provisions & Legal Framework) to incorporate terms to accommodate Index Swaptions. Those conforming and clarifying changes are set forth in Articles 1.0.1.1, 1.0.1.3, 1.1.2.1, 1.1.3.8, 1.1.3.9, 1.2.2.6, 1.2.2.11, 1.2.9.2, 1.2.12.2, and 1.2.14.2.

Separately, to provide additional clarification in respect of the cross-border aspects of its operations, LCH SA also proposes to include a definition for ''U.S. CCM'' to mean a CCM that is not a Non-U.S. CCM. A ''Non-U.S. CCM,'' in turn, would be defined as a CCM that engages in securities business activities solely outside the United States, its territories or possessions (except as otherwise permitted under SEC regulation without triggering a requirement to be registered as a ''broker'' or ''dealer'' under the Exchange Act) or, in the context of a Transaction that is not a security-based swap, a CCM that is organized under the laws of, or has its main center of business located in, a jurisdiction other than the United States, its territories or possessions. LCH SA also proposes to amend the definition of ''U.S. CCM Client'' to mean a CCM Client that is not a Non-U.S. CCM Client. A ''Non-U.S. CCM Client'' would mean a CCM Client that is organized under the laws of, or has its main center of business located in, a jurisdiction other than the United States, its territories or possessions.

Finally, certain other changes to the following terms would be made to correct existing inconsistencies or to make clarifications: ''Bank Recovery and Resolution Directive,'' ''Delegation'', ''Insolvency Proceeding'' and ''Settlement Finality Directive.''

b. Membership

Article 2.2.0.4 would be amended and Article 2.2.0.6 would be added to specify the procedures for an Applicant to register for the Index Swaption Clearing Service. Article 2.2.0.4 would be amended to reflect that the Product Family Form of a Select Member may be updated in accordance with Clause 6.1 of the CDS Default Management Process, as described below. Article 2.2.0.6 would also provide that an Applicant or existing Clearing Member may elect to register for, or terminate its registration from, the Index Swaption Clearing Service and, if applicable, that such registration will be deemed to occur in accordance with Clause 6.1 of the CDS Default Management Process. As a result of the addition of Index Swaptions, LCH SA also proposes to make conforming changes to Article 2.2.1.1 to reflect the addition of the Index Swaption Clearing Service.

c. Novation of Contracts

Article 3.1.6.1 would be amended to add a new Article 3.1.6.1(iv) to describe the novation process in respect of Original Transactions that are Index Swaption Intraday Transactions. Specifically, Article 3.1.6.1(iv) would provide that each Original Transaction which is an Index Swaption Intraday Transaction will be replaced by two Cleared Transactions: (a) A Cleared Transaction entered into between LCH SA (acting as Index Swaption seller in respect of such Cleared Transaction) and either: (x) In the event the Index Swaption buyer of the Original Transaction is a Clearing Member, such Clearing Member (acting as Index Swaption Buyer in respect of such Cleared Transaction); or (y) in the event the Index Swaption buyer of the Original Transaction is a Client, the relevant Nominated Clearing Member (acting as Index Swaption Buyer in respect of such Cleared Transaction), as applicable; and (b) a Cleared Transaction entered into between LCH SA (acting as Index Swaption buyer in respect of such Cleared Transaction) and either: (x) In the event the Index Swaption seller of the Original Transaction is a Clearing Member, such Clearing Member (acting as Index Swaption Seller in respect of such Cleared Transaction); or (y) in the event the Index Swaption seller of the Original Transaction is a Client, the relevant Nominated Clearing Member (acting as Index Swaption Seller in respect of such Cleared Transaction), as applicable. Various other conforming and clarifying changes would also be made Article 3.1.6.1 to add references for Index Swaptions. Existing Article 3.1.6.1(iv) would be renumbered as 3.1.6.1(v).

Article 3.1.6.4 currently provides that LCH SA will be entitled to assume that certain events (such as delivery of a Credit Event Notice or Notice of Physical Settlement) have not occurred prior to novation because these events would terminate a constituent of the index underlying the CDS contract submitted for clearing; similarly, it would be amended to clarify that such events include Notices to Exercise Movement Option and Exercise Notices with respect to Index Swaptions because delivery of such notices would signify expiry of the option contract submitted for clearing.

Article 3.2.2.3 would clarify that LCH SA would calculate a Clearing Member's Open Positions by netting Cleared Transactions of the same type, including the same Swaption Type, as applicable. Article 3.3.1.3 would be amended to clarify that following a Restructuring Credit Event, LCH SA may compress Index Swaption Cleared Transactions to result in one or more Cleared Transaction(s) *per* Swaption Type and to provide that during an EMP Creation Period, LCH SA may compress Index Swaption Cleared Transactions to result in one or more Exercise Cleared Transactions. Article 3.3.1.4 similarly would be amended to clarify that compression of Cleared Transactions would be done in the same CDS Type or Swaption Type, as applicable. Article 3.3.1.7, which also relates to compression, would be amended to specify that Premiums in respect of Index Swaptions will be netted and the Premiums for the Cleared Transactions resulting from the compression shall be determined by reference to the Cleared Transactions that were compressed.

Finally, LCH SA also would make conforming changes and corrections to Articles 3.1.6.8 and 3.1.10.7.

d. End of Day Pricing Determination

Section 4.2.7, which sets forth the procedures for calculating and using end of day pricing, would be amended to incorporate procedures for calculating end of day pricing for Index Swaptions. Article 4.2.7.1 would preserve the existing ''Markit LCH Settlement Price'' as the price/spread used to calculate the settlement prices for Index Cleared Transactions and Single Name Cleared Transactions on either an end of day or intra-day basis and add that LCH SA will use the ''LCH Settlement Price'' for purposes of calculating any risk calculation, valuing a Clearing Member's Open Positions and calculating a Clearing Member's Margin Requirements in respect of Index Swaptions. Article 4.2.7.2 would be amended to authorize each Clearing Member to use the ''LCH Settlement Price'' in respect of Index Swaptions in the same manner that Clearing Members are authorized to use the Markit LCH Settlement Price. Articles 4.2.7.3, which includes a disclaimer of warranties and liabilities as to End of Day Contributed Prices, and Article 4.2.7.5, which provides that End of Day Contributed Prices are accepted ''as is,'' would each be amended to make clear that the

disclaimers and limitations therein also apply to the LCH Settlement Price in respect of Index Swaptions. Article 4.2.7.6 would be amended to keep the Index Publisher as an intended third party beneficiary of Article 4.2.7.1 and Article 4.2.7.5 but only in respect of the Markit LCH Settlement Prices, not the newly-added LCH Settlement Prices that are calculated by LCH SA.

Articles 4.2.7.7 and 4.2.7.8 would also be amended to incorporate references for Index Swaptions and Article 4.2.7.5 would include a minor clarifying change for readability.

e. Client Clearing Service

Article 5.1.1.3, which constitutes the Mandatory Client Clearing Provisions, would be amended to incorporate references to Index Swaption Seller and Index Swaption Buyer along with references to CDS Buyer and CDS Seller. Other clarifications and corrections would also be made in Article 5.1.1.3, Article 5.1.2.2, and Article 6.1.1.3.

Article 6.4.1.1 would include one conforming change to clarify that Index Swaptions may be transferred in the same manner as CDS if, at any time, a liquidation date exists.

f. Default Management Process

Appendix 1 of the Rule Book sets forth the process in accordance with which LCH SA and its Default Management Group will manage the default of a Clearing Member (the ''CDS Default Management Process''). The CDS Default Management Process would be amended in various places to incorporate terms for Index Swaptions. Clause 5.4.1 of the CDS Default Management Process, which provides for the scope of the requirement to participate in the competitive auction process for a Defaulting Clearing Member's transactions, would be amended to provide that an Auction Participant that is not registered for the Index Swaption Clearing Service is not required to participate in Competitive Bidding for an Auction Package containing any Index Swaption Cleared Transactions. Clause 6.1.2 of the CDS Default Management Process would be amended to establish the procedures for registering winning bids that are Index Swaptions so that if a Clearing Member is not currently registered for the Index Swaption Clearing Service, the Clearing Member will become automatically registered for the Index Swaption Clearing Service and its Product Family forms will be updated in accordance with Article 3.1.6.8 of the Rule Book. Clause 11.2.2 of the CDS Default Management Process would be amended to provide that of the five different members appointed as the CDS Default Management Group, at least two Clearing Members shall be registered for the Index Swaption Clearing Service.

Additional conforming and clarifying changes would also be made in the CDS Default Management Process Three defined terms, ''Invoice Back,'' ''Product Cash Payments'' and ''Transaction Categories,'' would be amended to incorporate terms for Index Swaptions. Clause 5.6.3 of the CDS Default Management Process would be amended to clarify the calculation for adjusting the Initial Allocation Price and the allocation of the Auction Package in the event where the aggregate of each Non Bidder's Auction Non Bidder Bid Size is equal to or greater than 100. Clause 8.3 of the CDS Default Management Process would also be amended to incorporate terms for Index Swaptions.

ii. Clearing Supplement

A new Part C would be added to the Clearing Supplement, to provide the terms of Index Swaption Cleared Transactions. The Index Swaption contracts would be based on the form of confirmation incorporating the iTraxx Swaption Standard Terms Supplement and reference the 2014 ISDA Credit Derivatives Definitions and the 2006 Definitions, with certain modifications. The Clearing Supplement is the document which sets forth the economic terms of the transactions cleared by LCH SA and the new Part C, in particular, would detail the economic terms that are particular to Index Swaption Cleared Transactions.

a. General Provisions

Section 1 of Part C sets forth general provisions of Index Swaption Cleared Transactions, including incorporation of defined terms by reference, definitions of capitalized terms, resolution of inconsistencies or conflicts between the documents governing Index Swaptions, timing references, third party rights, recording, and application of the CDS Clearing Supplement to FCM Clearing Members with respect to client transactions.

b. Terms of Cleared Transactions

Section 2 of Part C would provide for the creation of Index Swaption Cleared Transactions, Swaption Restructuring Cleared Transactions, and Exercise Cleared Transactions. As described above, an Index Swaption Cleared Transaction is a Cleared Transaction, the terms of which are as evidenced by an Index Swaption Cleared Transaction Confirmation, which gives Swaption Buyer the right to enter into a specified Underlying Index Transaction with Swaption Seller. A Swaption Restructuring Cleared Transaction, in turn, is an Index Swaption Cleared Transaction forming part of an Swaption Restructuring Matched Pair, meaning a set of transactions created by LCH SA as a result of an ISDA Determinations Committee announcement of the occurrence of an M(M)R Restructuring Credit Event (as defined in the ISDA Credit Definitions) for a Reference Entity referenced by such Underlying Index Transaction. An Exercise Cleared Transaction is an Index Swaption Cleared Transaction (including each Swaption Restructuring Cleared Transaction, as applicable) forming part of an Exercise Matched Pair, meaning a set of transactions created by LCH SA as a result of LCH SA's matching process, as described below. Upon the novation of an Original Transaction which is an Index Swaption or the creation of a Swaption Restructuring Cleared Transaction or an Exercise Cleared Transaction, Section 2 of Part C provides that each resulting Index Swaption Cleared Transaction and each such Swaption Restructuring Cleared Transaction and Exercise Cleared Transaction is then entered into by LCH SA and the relevant Clearing Member on the terms of the related Index Swaption Cleared Transaction Confirmation.

As noted above, an Index Swaption Cleared Transaction would be evidenced by an Index Swaption Cleared Transaction Confirmation, which, for an Underlying Index Transaction that references a Series of the Markit iTraxx® Europe Index, would be in the form of confirmation which incorporates the iTraxx® Swaption Standard Terms Supplement. Section 2 of Part C would make certain modifications to such form of confirmation to specify, for example, that the Index Swaption Cleared Transaction is between LCH SA and the Clearing Member, that the confirmation supplements and forms part of, and is subject to, the CDS Clearing Documentation, that LCH SA is the calculation agent for purposes of the transaction, and that LCH SA will be the central counterparty for each Index Swaption Cleared Transaction. The Index Swaption Cleared Transaction Confirmation would also provide additional terms regarding termination of the Swaption Transaction on the Expiration Date.

Section 2 of Part C also specifies procedures for compression exercises for Index Swaption Cleared Transactions. In addition, certain amendments to the 2014 ISDA Credit Derivatives Definitions would be made

in order to enable LCH SA to designate a designee for delivering or receiving Credit Event Notices or Notices to Exercise Movement Option relating to an M(M)R Restructuring Credit Event.

c. Payments

Section 3 of Part C would set forth the payment obligations of each of LCH SA and each Clearing Member as well as the requirement to pay Premiums in respect of Index Swaption Cleared Transactions. Section 3.1 of Part C would provide that each of LCH SA and each Clearing Member will make each payment specified under the terms of each Cleared Transaction to be made by it, subject to the other provisions of the CDS Clearing Documentation and that payments under any Cleared Transaction will be made on the due date for value on that date in the place of the account specified for the relevant party in the CDS Admission Agreement (or such other account as may be designated by it from time to time). Section 3.2 of Part C would provide that if the Premium is due and payable under the terms of an Original Transaction on or before the Clearing Day on which the related Index Swaption Cleared Transactions are created by novation, such amount would be payable under and in accordance with the terms of such Original Transaction. If the Premium Payment Date of an Original Transaction would be a date falling after the Clearing Day on which the Index Swaption Cleared Transactions related to such Original Transaction are created by novation, then the corresponding Premium Payment Date for the related Index Swaption Cleared Transactions shall occur on the Transaction Business Day which is also a Clearing Day immediately following the Clearing Day on which such related Index Swaption Cleared Transactions are created and the Index Swaption Cleared Transaction Confirmation shall be deemed to have been amended accordingly.

d. Credit Event and Succession Events

Section 4 of Part C would outline the requirements and procedures in the event of a Credit Event, Succession Event or M(M)R Restructuring Credit Event. With respect to Credit Events and Succession Events, Section 4.1 of Part C would provide that LCH SA (in its capacity as Calculation Agent with respect to such Cleared Transaction) will not make any determinations pursuant to the 2014 ISDA Credit Definitions on substituting reference obligations or which may be subject to successor resolutions of the ISDA Determinations Committee Rules and that neither LCH SA nor any Clearing Member shall be entitled to deliver a Successor Notice or a Credit Event Notice (other than Credit Event Notices in relation to an M(M)R Restructuring Credit Event, as described below). With respect to an M(M)R Restructuring Credit Event, Section 4.2 of Part C would provide that upon an ISDA Determinations Committee Credit Event Announcement of an M(M)R Restructuring Credit Event, LCH SA will publish and make available to Clearing Members a timeline in respect of the relevant Credit Event and related Cleared Transactions for which the Underlying Index Transaction references the affected Reference Entity, to notify, among other things, the relevant Novation Cut-off Date, Compression Cut-off Date and First Novation Date. Any such timeline may be subject to subsequent amendment by LCH SA, however, by means of a Clearing Notice to Clearing Members, to reflect subsequent ISDA Determinations Committee resolutions, timing provisions of any relevant Transaction Auction Settlement Terms, or in each case any subsequent amendments thereto. To the extent that an ISDA Determinations Committee Announcement is reversed, Section 4.3 of Part C would require LCH SA to calculate and LCH SA would be entitled to call for margin and/or be obliged to return margin with respect to each Clearing Member.

e. Restructuring

Section 5 of Part C, entitled Restructuring, would set forth the requirements and procedures for the creation of Swaption Restructuring Matched Pairs, the triggering and partial triggering of Swaption Restructuring Cleared Transactions, and the notification requirements in respect of Swaption Restructuring Matched Pairs. Specifically, Section 5.1 of Part C would provide that following the occurrence of an ISDA Determinations Committee Announcement in respect of an M(M)R Restructuring Credit Event in respect of a Reference Entity referenced by the Underlying Index Transaction to which a set of Index Swaption Cleared Transactions of the same Swaption Type relates, LCH SA will create (on one or more occasions) Swaption Restructuring Matched Pairs and each such Swaption Restructuring Matched Pair shall be composed of two Swaption Restructuring Cleared Transactions.

Under Section 5.2 of Part C, where two or more Index Swaption Cleared Transactions have been combined into a single transaction as part of the matching process and/or where any Index Swaption Cleared Transaction has been split into two or more separate transactions as part of the matching process, the relevant original Index Swaption Cleared Transactions entered into by each Clearing Member with LCH SA will be deemed terminated and new Swaption Restructuring Cleared Transactions of the same Swaption Type will be deemed to be entered into between each such Clearing Member and LCH SA, with each such Swaption Restructuring Cleared Transaction having a Swaption Notional Amount (and with the Underlying Index Transaction in respect of each such Swaption Restructuring Cleared Transaction having an Original Notional Amount) corresponding to the Swaption Restructuring Matched Pair Amount of the Swaption Restructuring Matched Pair in which the relevant Clearing Member is comprised as a Matched Buyer or a Matched Seller, as applicable.

Section 5.3 of Part C would provide when a Clearing Member may deliver Credit Event Notices (as CDS Buyer or CDS Seller) in relation to an M(M)R Restructuring Credit Event. Section 5.4 of Part C would address a partial triggering of a Swaption Restructuring Cleared Transaction. Section 5.5 of Part C would specify the requirements for delivering a Notice to Exercise Movement Option. Section 5.6 would set forth the effect of Credit Event Notices and Notices of Exercise Movement Options, providing that a Matched Buyer and Matched Seller shall have no payment or delivery obligations in respect of the M(M)R Restructuring Credit Event as a result of the delivery of a Credit Event Notice or Notice to Exercise Movement Option. Such payment and delivery obligations shall instead arise under the Restructuring Cleared Transactions created following exercise (if applicable). Section 5.7 of Part C would outline the procedures upon the reversal of an ISDA Determinations Committee M(M)R Restructuring Credit Event announcement. Section 5.8 of Part C would set forth the reports that LCH SA would deliver to relevant Clearing Members as a result of an M(M)R Restructuring Credit Event. Finally, Section 5.9 of Part C would set forth the procedures applicable upon the expiry of the CEN Triggering Period (*i.e.,* the period during which the parties to the Swaption Restructuring Cleared Transaction of a Swaption Restructuring Matched Pair may deliver a Credit Event Notice in relation to the relevant M(M)R Restructuring Credit Event).

f. Exercise Matched Pairs

Section 6 of Part C would address the exercise of Matched Pairs, including the creation and notification of Exercise Matched Pairs, the creation of Exercise Cleared Transactions, the delivery of Exercise and Abandonment Notices, and Cleared Transaction Exercise Reports.

On each Transaction Business Day during the EMP Creation Period (*i.e.,* the period from (and including) the final Transaction Business Day of the calendar week immediately preceding the week in which the Expiration Date falls to (but excluding) the Transaction Business Day immediately preceding the Expiration Date), LCH SA will create Exercise Matched Pairs for a set of Index Swaption Cleared Transactions of the same Swaption Type, and each such Exercise Matched Pair shall be composed of two Exercise Cleared Transactions. Upon the creation of an Exercise Matched Pair, LCH SA will then notify the relevant Matched Buyer and Matched Seller comprised within each Exercise Matched Pair of: (i) The identity of the other Clearing Member of such Exercise Matched Pair; and (ii) the associated Exercise Matched Pair Amount. Section 6.1 of Part C would also provide that if Swaption Restructuring Matched Pairs have previously been created, then such Swaption Restructuring Matched Pairs and the Swaption Restructuring Cleared Transactions from which they are formed shall also automatically constitute Exercise Matched Pairs and Exercise Cleared Transactions (in addition to being Swaption Restructuring Matched Pairs and Swaption Restructuring Cleared Transactions) for the purposes of the Clearing Supplement.

Section 6.2 of Part C provides that upon the notification to the relevant Clearing Members of Exercise Matched Pairs, where two or more Index Swaption Cleared Transactions have been combined into a single transaction as part of the matching process and/or where any Index Swaption Cleared Transaction has been split into two or more separate transactions as part of the matching process, the relevant original Index Swaption Cleared Transactions entered into by each Clearing Member with LCH SA will be deemed terminated and new Exercise Cleared Transactions of the same Swaption Type will be deemed to be entered into between each such Clearing Member and LCH SA.

Section 6.3 of Part C would provide that Exercise Notices will be delivered by Swaption Buyers to Swaption Sellers and that any Exercise Notice delivered in respect of an Exercise Matched Pair for an amount which is greater than the related Exercise Matched Pair Notional Amount shall be ineffective as to such excess.

Section 6.4 of Part C would provide that if on the Expiration Date Swaption Buyer delivers a valid Abandonment Notice to Swaption Seller, then upon delivery of such notice each Exercise Cleared Transaction specified in such Abandonment Notice shall be terminated in whole and no further amounts shall become due and payable by Swaption Buyer to Swaption Seller or vice versa in respect of such Exercise Transaction.

Finally, Section 6.5 of Part C would provide that LCH SA will communicate to the relevant Clearing Members, on the basis of information received from Clearing Members the aggregate Swaption Notional Amounts of Exercise Cleared Transactions to which they are a party as Swaption Buyer in respect of which Exercise Notices and Abandonment Notices have been delivered and the aggregate Swaption Notional Amounts of Exercise Cleared Transactions to which they are a party as Swaption Seller in respect of which Exercise Notices and Abandonment Notices have been delivered, in each case on an ongoing basis on the Expiration Date.

g. Settlement

Section 7 of Part C would address settlement, providing that following Exercise, an Index Cleared Transaction shall be deemed to have been entered into between each Clearing Member and LCH SA on the terms of the Underlying Index Transaction to which the relevant Exercise Cleared Transactions relates and evidenced by an Index Cleared Transaction Confirmation. Following the creation of such Index Cleared Transaction and any Initial Single Name Cleared Transaction(s) and Restructuring Cleared Transaction(s), the Exercise Cleared Transaction from which it was created shall be terminated. Section 7 would also provide procedures for the creation of Single Name Cleared Transactions following a Credit Event as well as creation of Restructuring Cleared Transactions following an M(M)R Restructuring Credit Event.

h. Notices

Section 8 of Part C would provide for general rules relating to notices, including the methods of delivery of various notices and the timing of delivery for such notices.

i. Matched Pair Designations

Section 9 of Part C would outline the procedures for the creation of Matched Pairs, the registration of new Swaption Restructuring Cleared Transactions and Exercise Cleared Transactions, resetting of Swaption Trade Dates, the exercise of rights by Matched Buyers and Matched Sellers, and Matched Pairs with the same clearing member. Section 9.1 of Part C would provide that LCH SA will create Matched Pairs using a matching procedure that matches Swaption Sellers with Swaption Buyers pursuant to an algorithm. Section 9.2 of Part C would address the registration of Swaption Restructuring Cleared Transactions and Exercise Cleared Transactions and removal of original Index Swaption Cleared Transactions in accordance with DTCC Rules. Section 9.3 of Part C would provide the circumstances under which LCH SA may reset a Swaption Trade Date for Swaption Restructuring Cleared Transaction or Exercise Cleared Transaction. Section 9.4 of Part C would set forth the notice mechanics with respect to applicable notices, including with respect to Exercise Notices and Abandonment Notices. Section 9.5 of Part C would provide that, in relation to each Matched Pair, (x) the exercise of any rights by Matched Buyer against LCH SA under a Matched Buyer Contract shall be deemed to constitute the exercise of equal and simultaneous rights by LCH SA against Matched Seller under the Matched Seller Contract of the relevant Matched Pair, and (y) the exercise of any rights by Matched Seller against LCH SA under a Matched Seller Contract shall be deemed to constitute the exercise of equal and simultaneous rights by LCH SA against Matched Buyer under the Matched Buyer Contract of the relevant Matched Pair. To the extent that Matched Buyer and Matched Seller of a Matched Pair is the same Clearing Member, Section 9.6 would provide that such Clearing Member shall be deemed to have sent a notice from itself in its role as Matched Buyer to itself in its role as Matched Seller (and vice versa) upon such Clearing Member sending a Clearing Member Notice to LCH SA. Section 9.7 of Part C would then set forth the notice mechanics with respect to Matched Pair Buyer and Matched Pair Sellers.

j. Miscellaneous

Sections 10 through 15 of Part C would contain miscellaneous provisions, including ones that relate to the mandatory provisions to be incorporated into CCM Client

Transactions, amendments, form of notices, limitation and exclusion of liability, dispute resolution, and governing law. The appendices to Part C would also include various forms, including the form of Exercise Notice (Appendix I), Abandonment Notice (Appendix II), Credit Event Notice (Appendix III), Notice to Exercise Movement Option (Appendix IV), Notice of Dispute Relating to Any Swaption Restructuring Exercise Matched Pair (Appendix V), and CCM Client Transaction Requirements (Appendix VI).

iii. CDS Clearing Procedures

Various changes to the Procedures would be made for Index Swaptions.

a. Membership

Section 1.1 of the Procedures sets forth the indicative timeline for LCH SA's processing of membership applications. Section 1.1 of the Procedures would be amended to clarify that an Applicant would be required to identify operational personnel with knowledge of Index Swaptions and that whether a Clearing Member's registration for the Index Swaption Clearing Service is approved will be specified in the LCH SA approval letter. Section 1.2 would be amended to state that if a Clearing Member wishes to register, or to be no longer registered, for the Index Swaption Clearing Service that Clearing Member must inform LCH SA and that LCH SA will notify the Clearing Member of its decision to register or terminate registration of the Clearing Member in respect of the Index Swaption Clearing Service. Section 1.2 of the Procedures would further provide that if a Clearing Member wishes to no longer be registered for the Index Swaption Clearing Service, LCH SA will not approve such a request as long as there is any Index Swaption Cleared Transaction registered in that Clearing Member's Account Structure.

b. Margin and Price Alignment Interest

Section 2.7 of the Procedures, which describes the Initial Margin collected by LCH SA, would be modified to include a reference to Index Swaptions and to clarify that Initial Margin covers potential costs caused by a Defaulting Clearing Member and/or a ''double Event of Default,'' in respect of which the Clearing Member is a protection seller in respect of the Underlying Index Transaction of an Index Swaption Cleared Transaction. Sections 2.7(a)–(b) also include amendments for clarification purposes; Section 2.7(a) would note that Spread Margin would be calculated using spread and volatility variations; Section 2.7(b) would delete language for readability. Section 2.7(c) of the Procedures would be amended to refer to Index Swaption Cleared Transactions and to make clear the Short Charge Margin would be imposed where a Clearing Member is acting as a protection seller in respect of the Underlying Index Transaction of an Index Swaption Cleared Transaction. Section 2.8 of the Procedures would be amended to specify that Self-Referencing Protection Margin would be imposed where a Clearing Member is acting as a protection seller in respect of the Underlying Index Transaction of an Index Swaption Cleared Transaction, for which such Clearing Member is, or becomes, the Reference Entity. In Section 2.10 of the Procedures, changes would be made to specify that each Clearing Member acting as a protection buyer in respect of an Underlying Index Transaction of an Index Swaption Cleared Transaction where the exercise of that Index Swaption Cleared Transaction falls in the margin calculation time horizon would be required to pay Accrued Fixed Amount Liquidation Risk Margin, to cover the risk that it is subject to an Event of Default and accrued Fixed Amounts are due during the period that the relevant House Cleared Transactions or Non-Ported Cleared Transactions, as applicable, are liquidated pursuant to the CDS Default Management Process. Section 2.11 of the Procedures, which relates to Credit Event Margin, would also be amended to specify that where a Credit Event occurs with respect to the Reference Entity which is the subject of the Cleared Transaction, each Clearing Member is required to pay Credit Event Margin to cover the risk of a potential adverse change in the estimated recovery rate, in the event of non-payment of Variation Margin by the Index Swaption Seller or Index Swaption Buyer in respect of an Index Swaption Cleared Transaction. Section 2.13 of the Procedures would also be amended to clarify that Variation Margin covers the variation of the market value of an Index Swaption.

c. Collateral and Cash Payment

Section 3.18 of the Procedures would be amended to state that a Clearing Member is required to pay Premiums to satisfy its Cash Payment obligation in respect of Index Swaptions.

d. Eligibility Requirements

Section 4.1 of the Procedures, which provides that LCH SA provides CDS Clearing Services only in relation to Original Transactions which comply with the requirements of Section 4.1(c) of the Procedures, would be modified to provide that in respect of an Original Transaction that is an Index Swaption Intraday Transaction, the Clearing Member must be registered for the Index Swaption Clearing Service. Section 4.1 (c)(iii)(C) would also be added to identify the eligibility requirements for Index Swaption Intraday Transactions.

A new Section 4.4 of the Procedures would be added to detail the procedures and factors for LCH SA to identify those contracts which will be considered Eligible Index Swaptions. Section 4.4 of the Procedures would require that LCH SA, in consultation with the CDSClear Product Committee, consider (i) each Expiration Date that is eligible for clearing; (ii) each Index Version of the Underlying Index Transaction which is eligible for clearing, as well as each term which is eligible for clearing and the currency of the Original Notional Amount which is eligible for clearing. Section 4.4(c) of the Procedures would also require that eligible Index Swaptions be published on LCH SA's Web site and Section 4.4(d) of the Procedures would permit LCH SA, in consultation with the CDSClear Product Committee, to amend the Eligible Index Swaptions List. Section 4.4(e)(ii) of the Procedures would identify the circumstances in which a Clearing Member may submit for clearing an Index Swaption that does not satisfy the relevant criteria in Section 4.1(c)(vi) of the Procedures if such transaction is a risk reducing transaction (as determined by LCH SA) in respect of a relevant Margin Account and it is not unlawful or illegal for LCH SA to accept such transaction for clearing.

e. CDS Clearing Operations

Section 5 of the Procedures, which addresses CDS clearing operations, would include various amendments to facilitate clearing of Index Swaptions. Section 5.5 of the Procedures would be modified to include a description of the trade compression process for Index Swaption Cleared Transactions. Section 5.8 of the Procedures sets forth the process and procedures to ensure that all Cleared Transactions are stored and replicated on LCH SA's systems. Additional events required to be recorded and stored would be added to the list of items in Section 5.8 of the Procedures, including the creation of Swaption Restructuring Cleared Transactions and Exercise Cleared Transactions as well as the exercise of Exercise Cleared Transactions. Section 5.16 of the Procedures would be amended to require that LCH SA publish a Cleared Transaction Exercise Report. Section 5.18.2 (b) of the

Procedures would be amended to describe the process of the calculation of End of Day Contributed Prices in respect of Index Swaptions, which would include (i) the receipt and communication of market data from the Index Publisher, (ii) the application of a bid/ask constraint by LCH SA, with such values as defined by LCH SA from time to time, (iii) determination of a clearing price by LCH SA, and (iv) determination of any cross trades by LCH SA. Section 5.18.4 of the Procedures, relating to the use of data from an Index Publisher, would be modified to specify that if data is not received from the Index Publisher, LCH SA will use, with respect to Index Swaption Cleared Transactions, a computation of end of day contributed spreads and composite spreads for the purpose of calculating the Variation Margin Requirement for each Margin Account of a Clearing Member on the next following Business Day. Section 5.18.5 of the Procedures would then be amended to include a procedure for effecting cross trades where prices submitted by market participants in accordance with Section 5.18 do not reflect the quoted daily price for a particular Index Swaption. Finally, various other conforming and clarifying changes to refer to Index Swaptions would be made in Sections 5.3, 5.5, 5.12 and 5.16. Other amendments not related to Index Swaptions were made in Sections 5.11, 5.15 and 5.18.2 (a) for clarification purposes.

iv. Dispute Resolution Protocol

Section 3.10 of the Dispute Resolution Protocol, which establishes the procedures applicable to arbitration proceedings involving LCH SA, would be amended to specify that these procedures also apply if the parties to the arbitration include an Index Swaption Seller or Index Swaption Buyer and if the dispute arises out of or in connection with the Cleared Transactions which are the subject of a Swaption Restructuring Matched Pair or Exercise Matched Pair.

2. Statutory Basis

LCH SA believes that the proposed rule change and the clearing of Index Swaptions is consistent with the requirements of Section 17A of the Securities Exchange Act of 1934 [4] (the ''Act'') and the regulations thereunder, including the standards under Rule 17Ad–22.[5] Section 17(A)(b)(3)(F) of the Act [6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions. As noted above, the proposed rule change is designed to provide for the clearing of Index Swaptions. From the operational point of view, Index Swaptions would not require changes to the existing operational procedures and, upon being exercised, the resulting exercised cleared transactions will be cleared in the same manner as other index contracts, consistent with LCH SA's operational arrangements. In addition, the proposed rule change, including amendments to Titles IV, V, and VI of the Rulebook, Part C of the Clearing Supplement, CDS Clearing Procedures, and Dispute Resolution Protocol will also clearly set forth the terms and conditions of Index Swaption Cleared Transactions, the payments to be made thereunder, the rules and procedures upon the occurrence of a Credit Event or Restructuring Event, the process for settlement, the applicable documentation for Index Swaption Cleared Transactions, as well as the dispute resolution protocol. Therefore, LCH SA believes that the clearing of Index Swaptions and the related changes described herein are consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions, in accordance with 17(A)(b)(3)(F) of the Act.[7]

In addition, the proposed amendments also satisfy the relevant requirements of Rule 17Ad–22(e)(1), (13), and (18).[8] Rule 17Ad–22(e)(1) [9] requires that a clearing agency maintain a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions. The proposed rule change would modify LCH SA's existing rules and procedures to clearly define the requirements for Index Swaptions and establish a legal framework for LCH SA to clear Index Swaptions. The proposed rule change would also make certain corrections and clarifying and conforming changes in the Rule Book. LCH SA therefore believes that the proposed rule change is consistent with the requirements of Rule 17Ad–22(e)(1).

Further, Rule 17Ad–22(e)(13) requires a covered clearing agency to establish, maintain, and enforce policies and procedures reasonably designed to ensure the covered clearing agency has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations. LCH SA will apply its existing default management policies and procedures for Index Swaptions, including the procedures for participation in a competitive auction process for a Defaulting Clearing Member's transactions and the appointment of at least two Clearing Members registered for the Index Swaption Clearing Service to be part of the five-member CDS Default Management Group, to allow LCH SA to take timely action to contain losses and liquidity demands, in accordance with 17Ad–22(e)(13).[10]

Finally, Rule 17Ad–22(e)(18) requires a covered clearing agency to have policies and procedures reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access by direct, and where relevant, indirect participants and other financial market utilities, require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in clearing agency. As noted above, the proposed rule change would extend existing participation requirements to persons proposing to enter into Index Swaptions and make clear that such persons must have operational competence in respect of Index Swaptions. Therefore, LCH SA believes that the proposed rule change is consistent with the requirements of Rule 17Ad–22(e)(18).[11] Further, the membership requirements applicable to persons proposing to enter into Index Swaptions are designed to identify persons with sufficient operational capacity and expertise in relation to Index Swaptions; such requirements or criteria apply to every and all persons applying to enter into Index Swaptions clearing service equally and, as such, are not designed to unfairly discriminate in the admission of participants or among participants of LCH SA, in accordance with 17(A)(b)(3)(F) of the Act.[12]

B. Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the

[4] 15 U.S.C. 78q–1.

[5] 17 CFR 240.17Ad–22.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22(e)(1), (4), (8), (12), (17), (18), and (22).

[9] 17 CFR 240.17Ad–22(e)(1).

[10] 17 CFR 240.17Ad–22(e)(13).

[11] 17 CFR 240.17Ad–22(e)(18).

[12] 15 U.S.C. 78q–1(b)(3)(F).

purposes of the Act.[13] LCH SA does not believe that its clearing of Index Swaptions will adversely affect competition in the trading market for those contracts or CDS generally. By allowing LCH SA to clear Index Swaptions, market participants will have additional choices on where to clear and which products to use for risk management purposes, which, in turn, will promote competition and further the development of CDS for risk management. In addition, LCH SA will apply its existing fair and open access criteria to the clearing of Index Swaptions and will apply the same criteria to every person who proposes to enter into the clearing of Index Swaptions. Such criteria are designed to identify persons with sufficient operational capacity and expertise in relation to Index Swaptions as part of the membership requirements that are necessary and appropriate for LCH SA to manage the risk arising from allowing persons to participate in Index Swaptions. Accordingly LCH SA does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–LCH SA–2017–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–LCH SA–2017–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of LCH SA and on LCH SA's Web site at *http://www.lch.com/asset-classes/cdsclear.*

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–LCH SA–2017–006 and should be submitted on or before September 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18450 Filed 8–30–17; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78q–1(b)(3)(I).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81484; File No. SR–IEX–2017–27]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Transaction Fees Pursuant to Rule 15.110

August 25, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 11, 2017, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Commission a proposed rule change to increase the fees assessed under specified circumstances for execution of orders that take liquidity during periods when the IEX System has determined that a ''crumbling quote'' exists with respect to the Protected National Best Bid (''NBB'') or Protected National Best Offer (''NBO'') for such security.[6]

The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CRF 240.19b–4.

[6] *See,* Rule 600(b)(42) under Regulation NMS.

the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule, pursuant to IEX Rule 15.110(a) and (c), to increase the fees assessed under specified circumstances for execution of orders that take liquidity during periods when the IEX System has determined that a ''crumbling quote'' exists with respect to the Protected NBB or Protected NBO for such security.

Pursuant to IEX Rule 11.190(g), in determining whether quote instability or a crumbling quote exists, the Exchange utilizes real time relative quoting activity of certain Protected Quotations [7] and a proprietary mathematical calculation (the ''quote instability calculation'') to assess the probability of an imminent change to the current Protected NBB to a lower price or Protected NBO to a higher price for a particular security (''quote instability factor''). When the quoting activity meets predefined criteria and the quote instability factor calculated is greater than the Exchange's defined quote instability threshold, the System treats the quote as unstable and the crumbling quote indicator (''CQI'') is on. During all other times, the quote is considered stable, and the CQI is off. The System independently assesses the stability of the Protected NBB and Protected NBO for each security. When the System determines that a quote, either the Protected NBB or the Protected NBO, is unstable, the determination remains in effect at that price level for two milliseconds. The Exchange proposes to increase fees assessed for execution of buy (sell) orders that take liquidity at prices at or below (above) the NBO (NBB) during the two milliseconds when the CQI is on. Therefore, buy orders taking liquidity up to the Protected NBO and sell orders taking liquidity down to the Protected NBB when the CQI is on will be subject to the increased fee.

When CQI is on, Discretionary Peg orders [8] and primary peg orders [9] do not exercise price discretion to meet the limit price of an active (*i.e.,* taking) order. Specifically, as set forth in Rule 11.190(b)(10), a Discretionary Peg order pegs to the less aggressive of the primary quote (*i.e.,* NBB for buy orders and NBO for sell orders) or the order's limit price, if any, but, will exercise price discretion in order to meet the limit price of an active order up to the less aggressive of the Midpoint Price or the order's limit price, if any. However, a Discretionary Peg order will not exercise such price discretion when the CQI is on. Similarly, as set forth in Rule 11.190(b)(8), a primary peg order pegs to a price that is the less aggressive of one (1) minimum price variant (''MPV'') less aggressive than the primary quote (*i.e.,* one MPV below (above) the NBB (NBO) for buy (sell) orders) or the order's limit price, if any, but will exercise price discretion in order to meet the limit price of an active order up to the NBB (for buy orders) or down to the NBO (for sell orders), except when the CQI is on or if the order is resting at its limit price, if any.

By not permitting resting Discretionary Peg orders and primary peg orders to exercise price discretion during periods of quote instability, the Exchange is designed to protect such orders from unfavorable executions when its probabilistic model identifies that the market appears to be moving adversely to them. As noted above, when the IEX System determines that a quote (either the Protected NBB or the Protected NBO) is unstable, the determination, and corresponding limitation on Discretionary Peg and primary peg orders exercising price discretion, remains in effect at that price level for only two milliseconds. This limitation is designed to appropriately balance the protective benefits to Discretionary Peg and primary peg orders with the interest of avoiding potentially undue trading restrictions.

Based on market data analysis during June 2017, the Exchange identified that there are significant differences in short term markouts [10] (and pro forma profit and loss [11]) for resting and taking orders between executions when the CQI is on and off, regardless of whether the NBB (NBO) moves lower (higher) within two milliseconds of the Exchange's determination of quote instability. Specifically, when the CQI is on, liquidity removing orders that execute on IEX (trading with a liquidity providing order resting on the order book, including but not limited to Discretionary Peg and primary peg orders) experience positive price markouts one second after the trade on a share basis 75.6% of the time, compared to 23.9% of the time when the CQI is off. Correspondingly, resting liquidity providing orders that trade when the CQI is on experience negative price markouts one second after the trade 75.6% of the time, compared to 23.9% of the time when CQI is off. Similarly, 72.1% of all orders received when the CQI is on (whether or not executed on IEX) arrive immediately prior to a favorable price move (based on one second markouts), compared to 18.2% of orders received when the CQI is off.

Moreover, the breakdown of orders entered and shares removed when the CQI is on or off evidences that certain trading strategies appear to involve entering liquidity taking orders targeting resting orders at prices that are likely to move adversely from the perspective of the resting order. Across all approximately 8,000 symbols available for trading on IEX, the CQI is on only 1.24 seconds per symbol per day on average (0.005% of the time during regular market hours),[12] but 30.4% of marketable orders [13] are received during those time periods, which indicates that certain types of trading strategies are seeking to aggressively target liquidity providers during periods of quote instability.

The Exchange believes that this data is particularly significant and evidences that Members entering liquidity taking orders when the CQI is on appear to be able to engage in a form of latency arbitrage by leveraging fast proprietary market data feeds and connectivity along with predictive strategies to chase short-term price momentum and successfully target resting orders at unstable prices. IEX believes that these types of trading strategies, with concentrated and aggressive tactics during moments of quote instability, are detrimental to the experience of other IEX participants. IEX further believes

[7] Pursuant to Rule 11.190(g), the Protected Quotations of the New York Stock Exchange, Nasdaq Stock Market, NYSE Arca, Nasdaq BX, Bats BZX Exchange, Bats BYX Exchange, Bats EDGX Exchange, and Bats EDGA Exchange.

[8] *See* Rule 11.190(b)(10).

[9] *See* Rule 11.190(b)(8).

[10] The term markouts refers to changes in the midpoint of the NBBO measured from the perspective of either the liquidity providing resting order or liquidity removing taking order over a specified period of time following the time of execution.

[11] For purposes of this analysis, a pro forma profit or loss is calculated as the difference between the midpoint of the NBBO at the time of the execution compared to one second after.

[12] On a volume weighted basis, the CQI is on for 6.50 seconds per day per symbol, 0.03% of the time during regular market hours.

[13] An order is considered marketable for this analysis if it was a market order or its limit price is at or more aggressive than the far touch quotation.

that such trading strategies create disparate burdens on resting orders, particularly those that are displayed and therefore ineligible to benefit from the CQI.

Accordingly, to incentivize additional resting liquidity, including displayed liquidity, on IEX, the Exchange proposes to increase the fees applicable to orders that remove resting liquidity when the CQI is on if such orders constitute at least 5% of the Member's volume executed on IEX and at least 1,000,000 shares, on a monthly basis, measured on a per market participant identifier (''MPID'') basis. As proposed, such orders that exceed the 5% and 1,000,000 share thresholds would be assessed a fee of $0.0030 per each incremental share executed (or 0.3% of the total dollar value of the transaction for securities priced below $1.00) that exceeds the threshold. For example, assume Member XYZ executed 100,000,000 shares through its MPID 1234 during a particular month, and 6,000,000 of such shares removed liquidity while the CQI was on. The 6,000,000 shares executed when the CQI was on exceed the threshold since such shares are more than 5% of MPID 1234's monthly volume (*i.e.,* 5,000,000) and at least 1,000,000 shares. Member XYZ would therefore be charged the fee on 1,000,000 shares which is the incremental number of shares above 5% of the 100,000,000 shares executed by MPID 1234 during the month.

Setting the fee threshold at 5% and 1,000,000 shares is a narrowly tailored approach, designed to only charge the increased fee in circumstances where the Member executes a meaningful portion of its volume via liquidity removing orders when the CQI is on, and not charge the fee for executions of this type that are more likely to be incidental to broader trading activity by the Member and not part of a specific trading strategy that targets resting liquidity during periods of quote instability. The Exchange proposes to refer to this pricing as the ''Crumbling Quote Remove Fee'' on the Fee Schedule with a Fee Code Indicator of ''Q'' to be provided by the Exchange on execution reports to Members removing liquidity when the CQI is on.

As proposed, to provide transparency about potential fees, the Exchange will begin providing Fee Code Indicator Q on execution reports at least one month prior to implementation of the Crumbling Quote Remove Fee so that Members can assess the impact of the new fee and make any corresponding adjustments to their trading strategies. IEX will announce the availability of new Fee Code Indicator Q approximately 30 days after effectiveness of this rule filing. IEX will provide at least ten business days' notice of implementation of the proposed fee within 90 days of effectiveness of this rule filing.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) [14] of the Act in general, and furthers the objectives of Sections 6(b)(4) [15] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. Additionally, IEX believes that the proposed fee is consistent with the investor protection objectives of Section 6(b)(5) [16] of the Act in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest.

The proposed new Crumbling Quote Remove Fee is designed to enhance the Exchange's market quality by encouraging Members and other market participants to add more liquidity to the Exchange order book, which benefits all investors by deepening the Exchange's liquidity pool. Specifically, the Exchange believes that trading strategies that target resting liquidity during periods of quote instability seek to trade at prices that are about to become stale, and thus discourage other market participants from entering liquidity providing orders on the Exchange. Thus, the Exchange believes that the proposal is reasonable because it would create an added incentive for Members and other market participants to provide liquidity on IEX since the increased fee may result in fewer orders seeking to remove liquidity when the CQI is on, and concomitant overall better execution quality.

Other exchanges offer incentives in the form of rebates and/or reduced fees that are designed to encourage market participants to send increased levels of order flow to such exchanges. These typically take the form of lower fees and higher rebates for meeting specified volume tiers.[17] These fee and rebate structures are typically justified by other exchanges on the basis that increased liquidity benefits all investors by deepening the exchange's liquidity pool, which provides price discovery and investor protection benefits.[18] The Exchange also notes that other exchanges charge different fees (or provide rebates) to the buyer and seller to an execution, which are generally referred to as either maker-taker or taker-maker pricing schemes. Typically, the exchange offering such pricing is seeking to incentivize orders that provide or remove liquidity, based on which type of orders receive a rebate. While these pricing schemes discriminate against the Member party to the trade that is charged a fee (in favor of the Member party to the trade that is paid a rebate) the Commission has not found these fees to be unfairly discriminatory in violation of the Act.[19]

Similarly, the proposal seeks to promote increased liquidity and price discovery on the Exchange by providing a fee designed to incentivize liquidity providing orders that can improve the quality of the market. The Exchange believes that, to the extent the fee is successful in reducing targeted and aggressive liquidity removing orders, it would contribute to investors' confidence in the fairness of transactions and the market generally, thereby benefiting multiple classes of market participants and supporting the public interest and investor protection purposes of the Act.

The Exchange believes that maker-taker and taker-maker pricing schemes in general create needless complexity in market structure in various ways and result in conflicts of interest between brokers and their customers. Accordingly, IEX has made a decision not to adopt rebate provisions in favor of a more transparent pricing structure that generally charges equal fees (or in some cases, no fee) for a particular trade to both the ''maker'' and ''taker'' of liquidity. Given this decision, IEX must use other means to incentivize orders to rest on its order book. IEX's execution quality is one important incentive, but this incentive can be undercut by trading strategies that target resting orders during periods of quote instability. Accordingly, IEX believes that the proposed Crumbling Quote Remove Fee is one reasonable way to compete with other exchanges for order flow, consistent with its alternative exchange model and without relying on rebates.

As discussed in the Purpose section, the increased fee would only be charged

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78f(b)(5).

[17] *See, e.g.,* New York Stock Exchange Price List 2017, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf. See also,* Nasdaq Rule 7018.

[18] *See, e.g.,* Securities Exchange Act Release No. 80034 (February 14, 2017), 82 FR 11275 (February 21, 2017) (File No. SR–BatsEDGX–2017–09).

[19] *See* note 15 *supra.*

on incremental orders above the 5% and 1,000,000 share monthly thresholds that remove resting liquidity when the CQI is on. The Exchange believes that limiting the fee to such circumstances is reasonable and equitable because it would not apply when executions taking liquidity while the CQI is on are likely to be incidental and not part of a deliberate trading strategy that targets resting liquidity during periods of quote instability. Consequently, the Exchange believes that the proposed fee structure is not unfairly discriminatory because it is narrowly tailored to charge a fee only on trading activity that is indicative of a trading strategy that may adversely affect execution quality on IEX and is reasonably related to the purpose of encouraging liquidity providing orders on IEX without the use of rebates.

The Exchange also believes that it is appropriate, and consistent with the Act, to not charge a fee to Members that do not exceed the 5% and 1,000,000 share thresholds during the month in question. This flexibility is designed to address limited inadvertent liquidity removal when the CQI is on for Members whose order flow during such times is incidental. In addition, the Exchange believes it is appropriate, and consistent with the Act, to not charge a fee to Members for the execution of buy (sell) orders that take liquidity at prices above (below) the Protected NBO (NBB) during the two milliseconds when the CQI is on because such executions are not indicative of a trading strategy that targets resting orders at soon to be stale prices during periods of quote instability.

Further, the Exchange believes that the data from June 2017 supports the position that the proposed threshold is narrowly tailored to only charge the fee based on objective criteria indicating that execution of the orders in question reasonably appear to be part of a deliberate trading strategy that targets resting liquidity during periods of quote instability. Based on data from June 2017, the Exchange estimates that only 13 Members each using one unique MPID (out of 125 total Members trading through 158 MPIDS that traded on IEX during the month) would have been subject to the proposed fee, five of which would have paid less than $1,500 in such fees.[20] The Members that were above the threshold also present a significantly different order entry profile than Members below the threshold with respect to orders entered when the CQI was on. For the 13 Member MPIDs above the threshold, 63.1% of such orders were marketable to the midpoint of the NBBO (64.3% for the eight Member MPIDs that would have paid more than $1,500), while for Member MPIDs below this number was only 13.4%. The Exchange believes that this difference evidences that Members above the threshold were more likely to be engaging in a deliberate strategy to target resting orders at soon to be stale prices.[21]

The Exchange also believes that it is consistent with the Act and an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities to measure whether the threshold is reached on an MPID basis. As discussed above, the threshold is designed to narrowly focus on executions that appear to be part of a deliberate trading strategy that targets resting liquidity during periods of quote instability. The Exchange believes that Members that utilize multiple MPIDs generally use different MPIDs for different trading strategies or customers. Therefore, the Exchange believes that measuring by MPID is a more precise manner of assessing whether a Member's trading strategy (or that of a customer) is part of a deliberate trading strategy that targets resting liquidity during periods of quote instability.

Accordingly, the Exchange submits that the proposed threshold is narrowly tailored to address particular trading strategies (rather than particular classes of Members) that may operate to disincentivize the entry of resting orders by other market participants. Specifically, and as discussed above, to the extent the proposed fee is successful in reducing such trading strategies on IEX, it may result in market quality improvements which could benefit multiple classes of market participants.

The Exchange further believes that charging the Crumbling Quote Remove Fee only to the liquidity remover is equitable and not unfairly discriminatory because it is designed to incentivize order flow that enhances the quality of trading on the Exchange and disincentivize trading that does not. As discussed above, IEX believes that there are precedents for exchanges to charge different fees based upon meeting (or not meeting) particular criteria, as well as maker-taker and taker-maker pricing structures whereby the liquidity adder and remover to a trade are subject to differing fees and rebates, to incentivize certain types of trading activity. Fees and rebates based on maker-taker and taker-maker pricing as well as on volume-based tiers have been widely adopted by equities exchanges. And in some cases, maker-taker or taker-maker pricing has been combined with volume-based tiers that result in differential fees and rebates for different exchange members. These fee structures have been permitted by the Commission. For example, Bats EDGA Exchange, Inc. (''EDGA'') previously offered a rebate contingent upon adding specified amounts of liquidity to EDGA.[22] Notwithstanding that certain classes of members (*e.g.,* exchange routing brokers) do not typically add liquidity on competing exchanges, this fee structure was justified by EDGA on the basis that, generally, it encourages growth in liquidity on EDGA and applies equally to all members.[23] Similarly, while the proposed IEX fee structure will result in the Crumbling Quote Remove Fee being imposed only on members using specific trading strategies, it is also designed to attract liquidity to IEX and applies equally to all Members.

The Exchange also notes that there is precedent to charge a different fee (or pay a different rebate) based on the execution price of an order. The Bats BZX Exchange, Inc. pays a rebate of $0.0017 to a non-displayed order that adds liquidity, while if such an order receives price improvement it does not receive a rebate or pay a fee.[24]

Thus, maker-taker, taker-maker, and volume tier based fee structures (separately or in combination) have been adopted by other exchanges on the basis that they may discriminate in favor of certain types of members but not in an unfairly discriminatory manner in violation of the Act. As with such fee structures, the Exchange believes that the proposed fee change is equitable and not unfairly discriminatory because it is narrowly tailored to disincentive to all Members from deploying trading strategies designed to chase short-term price momentum during periods when the CQI is on and thus potentially adversely impact liquidity providing orders. IEX believes that, to the extent it is successful in this regard, the proposed fee structure may lead to increased liquidity providing orders on IEX which could benefit multiple classes of market participants through increased trading

[20] The overall range would have been $426.49 to $123,897.20.

[21] Analysis of trading on IEX during April, May and July is consistent with the June data analysis.

[22] *See* Securities Exchange Act Release No. 80976 (June 20, 2017), 82 FR 28920 (June 26, 2017) (SR–BatsEDGA–2017–18).

[23] *See, e.g.,* Securities Exchange Act Release No. 69066 (March 7, 2013), 78 FR 16023 (March 13, 2013) (SR–EDGA–2013–10).

[24] *See* Bats BZX Exchange Fee Schedule, available at: *http://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

opportunities and reduced latency arbitrage.

Further, the Exchange notes that the Nasdaq Stock Market (''Nasdaq'') charges excess order fees (ranging from $0.005 to $0.01 per excess weighted order) on certain members that have a relatively high ratio of orders entered away from the NBBO to orders executed in whole or in part, subject to a carve-outs for specified lower volume members and certain registered market makers.[25] In its rule filing adopting the fee Nasdaq justified it as designed to achieve improvements in the quality of displayed liquidity to the benefit of all market participants.[26] Nasdaq also asserted that the fee is reasonable because market participants may readily avoid the fee by making improvements in their order entry practices, noting that ''[i]deally, the fee will be applied to no one because market participants will adjust their behavior to avoid the fee.'' [27]

Similarly, the proposed IEX fee is designed to incentivize the entry of liquidity providing orders that can enhance the quality of the market and disincentivize certain liquidity removing orders that can degrade the quality of the market. Participants can manage their fees by making adjustments to their order entry practices, to decrease their entry of orders designed to target resting liquidity during periods of quote instability. And, as with the Nasdaq excess order fees, ideally, the fee will be applied to no one, because participants will adjust their trading activity to account for the pricing change. Thus, the Exchange believes that the $0.0030 per share executed fee is reasonably related to the trading activity IEX is seeking to disincentivize.

IEX also believes that it is appropriate, reasonable and consistent with the Act, to charge a fee of $0.0030 per share executed (or 0.3% of the total dollar value of the transaction for securities priced below $1.00) that exceed the threshold described herein because it is within the transaction fee range charged by other exchanges [28] and consistent with Rule 610(c) of Regulation NMS.[29] Although the amount of the Crumbling Quote Remove Fee may not be adequate to fully disincentivize Members from deploying trading strategies designed to chase short-term price momentum during periods when the CQI is on, the Exchange is hopeful that it will at least reduce such activity based on the economic disincentives that the fee will provide.

Additionally, the Exchange believes that its proposed new fee code indicator, to be provided on execution reports, will provide transparency and predictability to Members as to applicable transaction fees. In this regard, IEX notes that Members will be able to maintain a tally of executions of liquidity taking orders potentially subject to the CQI fee on a monthly basis, and calculate whether the proportion of such orders is more than 5% of their total monthly volume on IEX. Using IEX execution reports, Members can calculate whether the sum of liquidity removing shares executed with Fee Code Indicator Q is more than 1,000,000 shares, and whether the sum of shares executed with Fee Code Indicator Q divided by the sum of total volume executed on IEX is more than 5%. In addition, IEX will provide the new feed code indicator to Members for at least one month prior to implementation of the Crumbling Quote Remove Fee so that Members can assess the potential impact of the new fee on their IEX order entry practices, and make any adjustments that the Members determines are warranted. The Exchange does not believe that it would be useful to publicly disseminate when the CQI is on in a particular security through a proprietary market data feed in view of the fact that the CQI is only on for two milliseconds at a time, given the latencies inherent in dissemination and receipt of proprietary market data. IEX Rule 11.190(g) describes with specificity when the CQI is on. And, as discussed above, the data suggests that Members that would be potentially impacted by the Crumbling Quote Remove Fee are engaging in purposeful activity and are thus able to determine with reasonable certainty when the CQI is on.

Moreover, IEX believes that the fee will help to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, because the fee is designed to reduce the entry of liquidity removing orders that can degrade the quality of the market and incentivize liquidity providing orders that can improve the quality of the market, thereby promoting greater order interaction and inhibiting potentially abusive trading practices.

Finally, and as discussed in the Burden on Competition section, the Exchange notes that it operates in a highly competitive market in which Members and market participants can readily direct order flow to competing venues if they deem fee levels to be excessive.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed pricing structure may increase competition and hopefully draw additional volume to the Exchange by enhancing the quality of executions across all participants when the CQI is on. As discussed in the Statutory Basis section, the proposed fee structure is a narrowly tailored approach, designed to enhance the Exchange's market quality by incentivizing trading activity that the Exchange believes enhances the quality of its market. The Exchange believes that the proposed fee would contribute to, rather than burden, competition, as the fee is intended to incentivize Members and market participants to send increased liquidity providing order flow to the Exchange, which may increase IEX's liquidity and market quality, thereby enhancing the Exchange's ability to compete with other exchanges. Further, the proposed fee is in line with fees charged by other exchanges.

The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if fee schedules at other venues are viewed as more favorable. Consequently, the Exchange believes that the degree to which IEX fees could impose any burden on competition is extremely limited, and does not believe that such fees would burden competition of Members or competing venues in a manner that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act

[25] *See* Nasdaq Rule 7018(a)(3)(m).

[26] *See,* Securities Exchange Act Release No. 66951 (May 9, 2012), 77 FR 28647 (May 15, 2012) (File No. SR–NASDAQ–2012–055).

[27] *Id.*

[28] *See* note 14 *supra.*

[29] 17 CFR 242.610(c)(1).

because, while the proposed fee would only be assessed in some circumstances, those circumstances are not based on the type of Member entering the liquidity removing order but on the percent and amount of liquidity removing volume that the Member executes when the CQI is on. Further, the proposed fee is intended to encourage market participants to bring increased volume to the Exchange, which benefits all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [30] of the Act.

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 under Section 19(b)(2)(B) [31] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2017–27 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–IEX–2017–27. 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–IEX–2017–27, and should be submitted on or before September 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18447 Filed 8–30–17; 8:45 am]

BILLING CODE 8011–01–P

[30] 15 U.S.C. 78s(b)(3)(A)(ii).

[31] 15 U.S.C. 78s(b)(2)(B).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–32796]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

August 25, 2017.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of August 2017. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 19, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Hae-Sung Lee, Attorney-Adviser, at (202) 551–7345 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE., Washington, DC 20549–8010.

Cash Reserve Fund, Inc. [File No. 811–03196]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 21, 2017, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $2,325 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on July 28, 2017.

Applicant's Address: 345 Park Avenue, New York, New York 10154.

Goldman Sachs Diversified Income Fund [File No. 811–23083]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on August 3, 2017.

Applicant's Address: 200 West Street, New York, New York 10282.

Goldman Sachs Dynamic Income Opportunities Fund [File No. 811–22868]

Summary: Applicant, a closed-end investment company, seeks an order

declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on August 3, 2017.

Applicant's Address: 200 West Street, New York, New York 10282.

HSBC Advisor Funds Trust [File No. 811–07583]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Each series of applicant has transferred its assets to a corresponding series of HSBC Funds and, on June 24, 2016, made a final distribution to its shareholders based on net asset value. Expenses of $15,173 incurred in connection with the reorganization were paid by the applicant and the applicant's investment adviser.

Filing Dates: The application was filed on August 4, 2017, and amended on August 18, 2017.

Applicant's Address: 4400 Easton Commons, Suite 200, Columbus, Ohio 43219–3035.

HSBC Portfolios [File No. 811–08928]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Each series of applicant has transferred its assets to a corresponding series of HSBC Funds and, on June 24, 2016, made a final distribution to its shareholders based on net asset value. Expenses of $2,463 incurred in connection with the reorganization were paid by the applicant and the applicant's investment adviser.

Filing Dates: The application was filed on August 4, 2017, and amended on August 18, 2017.

Applicant's Address: 4400 Easton Commons, Suite 200, Columbus, Ohio 43219–3035.

Kalmar Pooled Investment Trust [File No. 811–07853]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 23, 2017, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $200,000 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on August 18, 2017.

Applicant's Address: Barley Mill House, 3701 Kennett Pike, Wilmington, Delaware 19807.

JPMorgan China Region Fund, Inc. [File No. 811–06686]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On July 14, 2017, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant has 62 remaining shareholders, and each is entitled to a pro rata share of the assets, if any, remaining after the winding up of applicant's affairs. Applicant's remaining assets were transferred to a liquidating trust in which shareholders have a pro rata beneficial interest. Expenses of $192,043 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on August 18, 2017.

Applicant's Address: 1 Beacon Street, 18th Floor, Boston, Massachusetts 02108.

Touchstone Investment Trust [File No. 811–02538]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Each series of applicant has transferred its assets to a corresponding series of Touchstone Funds Group Trust and, on January 27, 2017, made a final distribution to its shareholders based on net asset value. Expenses of $51,370 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Dates: The application was filed on August 9, 2017, and amended on August 23, 2017.

Applicant's Address: 303 Broadway, Suite 1100, Cincinnati, Ohio 45202.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18453 Filed 8–30–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81482; File No. SR–IEX–2017–22]

Self-Regulatory Organizations; Investors Exchange LLC; Order Approving a Proposed Rule Change To Introduce a New Market Maker Peg Order

August 25, 2017.

I. Introduction

On June 30, 2017, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to (i) introduce a new Market Maker Peg Order; (ii) amend IEX Rule 11.510(c) to specify connectivity within the Exchange System when repricing a Market Maker Peg Order; and (iii) amend IEX Rule 11.340(d) to describe how Market Maker Peg Orders will be priced in order to comply with the Plan to Implement a Tick Size Pilot Program (''Tick Pilot Plan'').[3] The proposed rule change was published for comment in the **Federal Register** on July 11, 2017.[4] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to introduce a new Market Maker Peg Order that the Exchange states is designed to promote compliance by market makers with the continuous quoting and pricing obligations of IEX Rule 11.151 (Market Maker Obligations),[5] in a manner consistent with the requirements under Rule 15c3–5 of the Act (''Market Access Rule'') [6] and Regulation SHO.[7] The Exchange states that ''this order-based approach would provide an effective compliance tool to facilitate market makers compliance with the requirements of the Market Access Rule and Regulation SHO while also providing quotation adjusting functionality to its market makers.'' [8] IEX also states that market makers will have control of order origination, as required by the Market Access Rule, and retain the ability to make marking and locate determinations prior to order entry, as required by Regulation SHO.[9]

As proposed, the Market Maker Peg Order will be a one-sided limit order

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities and Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (File No. 4–657). *See also* Securities and Exchange Act Release No. 76382 (November 6, 2015) (File No. 4–657), 80 FR 70284 (File No. 4–657) (November 13, 2015), which extended the pilot period commencement date from May 6, 2015 to October 3, 2016.

[4] *See* Securities Exchange Act Release No. 81078 (July 5, 2017), 82 FR 32026 (''Notice'').

[5] IEX Rule 11.151 requires market makers for each stock in which they are registered to continuously maintain a two-sided quotation within a designated percentage of the National Best Bid (''NBB'') and National Best Offer (''NBO'').

[6] 17 CFR 240.15c3–5.

[7] *See* Notice, *supra* note 4, at 32027. *See also* 17 CFR 242.200 through 204 (Regulation SHO).

[8] *See* Notice, *supra* note 4, at 32027.

[9] *See id.*

that, similar to other peg orders available to market participants on the Exchange,[10] will be tied or ''pegged'' to a certain price. Unlike other peg orders on the Exchange, however, it will be distinguishable in that it will always be displayed. Use of the Market Maker Peg Order will be limited to the Exchange's registered market makers.[11] Market Maker Peg Orders will have their price automatically set and adjusted by the System,[12] both upon entry and any time thereafter, in order to comply with the Exchange's rules regarding market maker quoting and pricing obligations.[13]

Specifically, upon entry or at the beginning of the Regular Market Session,[14] as applicable, the entered bid or offer will be automatically priced by the System at the Designated Percentage (as defined in IEX Rule 11.151(a)(6)) away from the then current NBB or NBO, as applicable, or if there is no NBB or NBO, at the Designated Percentage away from the last reported sale from the responsible single plan processor in order to comply with the quotation requirements for market makers set forth in IEX Rule 11.151(a). Market makers will be able to submit Market Maker Peg Orders to the Exchange starting at the beginning of the Pre-Market Session, but the order will not be executable or automatically priced until the beginning of the Regular Market Session, and will expire at the end of the Regular Market Session.

Upon reaching the Defined Limit (as defined in IEX Rule 11.151(a)(7)), the price of a Market Maker Peg Order will be adjusted by the System to the Designated Percentage away from the then current NBB or NBO, or, if there is no NBB or NBO, the order will, by default, be the Designated Percentage away from the last reported sale from the responsible single plan processor. If a Market Maker Peg Order bid or offer moves a specified number of percentage points away from the Designated Percentage towards the then current NBB or NBO, its price will be adjusted by the System to the Designated Percentage away from the then current NBB or NBO, as applicable. If there is no NBB or NBO, as applicable, the order will be adjusted by the System to the Designated Percentage away from the last reported sale from the responsible single plan processor. In the event that pricing a Market Maker Peg Order at the Designated Percentage away from the then current NBB and NBO, or, if no NBB or NBO, to the Designated Percentage away from the last reported sale from the responsible single plan processor, would result in the order exceeding its limit price, the order will be cancelled or rejected.[15]

If, after entry, the Market Maker Peg Order is priced based on the last reported sale from the single plan processor and such Market Maker Peg Order is established as the NBB or NBO, the Market Maker Peg Order will not be subsequently adjusted until either there is a new consolidated last sale or a new NBB or NBO is established.

For purposes of the proposed rule, the Exchange will apply the Designated Percentage and Defined Limit as set forth in IEX Rules 11.151(a)(6) and (7), respectively, subject to the following exception: For all NMS stocks with a price less than $1 per share that are not included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products, the Exchange will use the Designated Percentage and Defined Limit applicable to NMS stocks equal to or greater than $1 per share that are not included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products.

Market Maker Peg Orders will not be eligible for routing pursuant to IEX Rule 11.230(b) and are always displayed on the Exchange. Notwithstanding the availability of Market Maker Peg Order functionality, a market maker will remain responsible for entering, monitoring, and resubmitting, as applicable, quotations that meet the requirements of IEX Rule 11.151. A new timestamp will be created for the order each time that it is automatically adjusted in accordance with the proposed rule.

The Exchange states that the System will be available for entry, modification, and cancellation of Market Maker Peg Orders only via the POP[16] pursuant to IEX Rule 11.510(b), and thus will be subject to the Inbound and Outbound POP Latency upon entry, accordingly.[17] In addition, the Exchange proposes to amend IEX Rule 11.510(c) (System Connectivity) to provide that each time a Market Maker Peg Order is automatically adjusted by the System in accordance with proposed IEX Rule 11.190(b)(13), all inbound and outbound communications related to the modified order instruction will traverse an additional POP between the Market Maker Peg Order repricing logic and the Order Book, which is subject to an equivalent 350 microseconds of latency.[18] The Exchange states that this approach is designed so that a market maker using a Market Maker Peg Order will be in the same position as a market maker updating its own quote through the POP.[19]

Finally, the Exchange proposes to amend IEX Rule 11.340 (Compliance with Regulation NMS Plan to Implement a Tick Size Pilot) to specify that if, pursuant to proposed IEX Rule 11.190(b)(13), a Market Maker Peg Order in a Pilot Security[20] will be priced at an increment other than $0.05, the System will round such order to buy (sell) up (down) to the nearest permissible increment.[21] IEX states that this approach is designed to ensure that Market Maker Peg Orders for Pilot Securities are appropriately priced in $0.05 increments by rounding such orders to the nearest permissible increment that is also compliant with the minimum market maker quoting obligations set forth in IEX Rule 11.151.[22]

In its proposal, the Exchange noted its intention to implement the proposed

[10] *See* Rule 11.190(a)(3).

[11] *See* IEX Rule 11.150.

[12] The term ''System'' is defined in IEX Rule 1.160(nn).

[13] The Market Maker Peg Order is one-sided, and thus a market maker seeking to use Market Maker Peg Orders as a backstop to help facilitate compliance with the Exchange's continuous two-sided quotation requirements set forth in IEX Rule 11.151 would need to submit both a bid and an offer using the order type.

[14] The term ''Regular Market Session'' is defined in IEX Rule 1.160(gg).

[15] According to the Exchange, a limit price entered on a Market Maker Peg Order is designed to allow a market maker to specify a price at which the initial pricing and any subsequent repricing of the order to the Designated Percentage will be constrained. *See* Notice, *supra* note 4, at 32028.

[16] The term ''POP'' is defined in IEX Rule 11.510(a).

[17] *See* 11.510(b)(1) and (2), respectively, which define the ''Inbound POP Latency'' as an equivalent 350 microseconds of latency from the Exchange-provided network interface at the IEX POP to the System at the primary data center; and ''Outbound POP Latency'' as an equivalent 350 microseconds of latency from the System at the primary data center to the Exchange-provided network interface at the IEX POP.

[18] The Exchange states that the same ''additional POP'' that is used to implement an equivalent 350 microseconds of latency to all routable orders sent by the System to the Order Book pursuant to Rule 11.510(c)(1) will be used to implement such delay to all modified order instructions for Market Maker Peg Orders pursuant to proposed Rule 11.190(b)(13). *See* Notice, *supra* note 4, at 32028 fn 19.

[19] *See* Notice, *supra* note 4, at 32028. For additional details concerning IEX's approach to subject all inbound and outbound communications related to the repricing of Market Maker Peg Orders to POP latency, *see* Notice, *supra* note 4, at 32028–29.

[20] The term ''Pilot Security'' has the meaning specified in the Tick Pilot Plan.

[21] The Exchange states that if the rounding methodology results in a Market Maker Peg Order being priced to a price below $0.05, the order will be cancelled back to the market maker that entered the order. *See* Notice, *supra* note 4, at 32028.

[22] *See id*.

changes during the third quarter of 2017.[23]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.[24] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[25] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission finds that the proposed rule change also is designed to support the principles of Section 11A(a)(1)[26] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets.

The Commission finds that the Exchange's proposal is consistent with the Act because it provides an optional tool that market makers may use as a backstop to help maintain a continuous quote in satisfaction of the Exchange's minimum continuous quoting requirements, which may assist in the maintenance of fair and orderly markets. The Commission notes, however, that notwithstanding the availability of the Market Maker Peg Order functionality, the market maker remains responsible for meeting its obligations under IEX Rule 11.151, including entering, monitoring, and re-submitting, as applicable, compliant quotations. At the same time, the Commission finds that the proposal is reasonably designed to assist market makers in complying with the regulatory requirements of the Market Access Rule and Regulation SHO. The Commission notes, however, the Market Maker Peg Order does not by itself ensure that the market maker is satisfying the requirements of the Market Access Rule or Regulation SHO, including the satisfaction of the locate requirements of Rule 203(b)(1) of the Act or any exception thereto.

The Commission believes that the Exchange's proposal to subject all inbound and outbound communications related to Market Maker Peg Orders, including the automatic repricing of such orders, to POP latency is consistent with the Act. In particular, this treatment of the Market Maker Peg Order places a market maker using this order type in the same position as another market maker placing and updating its own quote directly without using the Market Maker Peg Order type—both will be subject to the POP and experience the same latency. In addition, this approach is consistent with the treatment of other displayed orders on the Exchange, all of which are subject to the POP latency.

Further, the Commission believes that the Exchange's proposal to specify how Market Maker Peg Orders will be priced in order to comply with the Tick Pilot Plan is consistent with the Act and Rule 608 of Regulation NMS[27] because it implements the Tick Pilot Plan and conforms Exchange rules to those requirements.[28]

Finally, the Commission notes that other national securities exchanges offer similar order types to the Exchange's proposed Market Maker Peg Order,[29] and the Commission received no comments on the Exchange's proposed rule change.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule change (SR–IEX–2017–22), be and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18455 Filed 8–30–17; 8:45 am]

BILLING CODE 8011–01–P

[23] *See id.* at 32029.

[24] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78k–1(a)(1).

[27] 17 CFR 242.608.

[28] The Commission notes that in this regard IEX's proposal is substantially similar to Bats BZX Exchange, Inc. (''Bats'') Rule 11.27(c)(5).

[29] *See, e.g.,* Bats Rule 11.9(c)(16), Nasdaq Stock Market LLC Rule 4702(b)(7), and Bats EDGX Exchange, Inc. Rule 11.8(e).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81486; File No. SR–ICC–2017–012]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to ICC's Liquidity Risk Management Framework and ICC's Stress Testing Framework

August 25, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934[1] and Rule 19b–4,[2] notice is hereby given that on August 22, 2017, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been primarily prepared by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICC Liquidity Risk Management Framework and the ICC Stress Testing Framework. These revisions do not require any changes to the ICC Clearing Rules (''Rules'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes revisions to its Stress Testing Framework and its Liquidity Risk Management Framework. Specifically, ICC proposes changes to enhance ICC's stress testing and liquidity stress testing practices following the clearing of Single Name (''SN'') credit default swaps (''CDS'') referencing ICC Clearing Participants

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''CPs''). ICC also proposes changes to the Stress Testing Framework to enhance compliance with U.S. Commodity Futures Trading Commission (''CFTC'') regulations including 17 CFR 39.36. ICC believes such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. The proposed revisions are described in detail as follows.

Stress Testing Framework

ICC proposes changes to its Stress Testing Framework following clearing of SN CDS referencing ICC CPs. ICC proposes amendments to the 'Predefined Scenarios' section of the Stress Testing Framework to amend scenarios classified as Hypothetically Constructed (Forward Looking) Extreme but Plausible Market Scenarios to incorporate additional losses related to the Expected Loss-Given-Default (''ELGD'') of all names not explicitly assumed to enter a state of default in a CP's portfolio, and not limited to those in the Banking or Sovereign sectors. The ELGD amount will accumulate the LGD of all of the SNs in the portfolio that do not explicitly enter a state of default, weighted by the market observed 1-year end-of-day Default Probability.[3]

ICC proposes to incorporate an enhanced analysis into the 'General Wrong Way Risk and Contagion Stress Tests' section of the Stress Testing Framework that estimates profits and losses (''P/L'') arising from general wrong way risk (''GWWR'') generated by index and SN RFs that exhibit high degree of association with CPs. All positions in the index and SN instruments are used to construct for each CP a hypothetical sub-portfolio subject to an additional stress test analysis. Under the proposed analysis, if the constructed sub-portfolio presents GWWR stemming from positions in SN Risk Factors (''RFs'') that belong to the Banking and Sovereign Sections, additional GWWR related stress losses, deemed to be 'extreme but plausible, will be added. These additional GWWR losses are computed as the product of the correlation-weighted uncollateralized LGDs and the SN-specific Default Probabilities. The proposed analysis is based on ICC's current GWWR P/L calculation, but assumes that the GWWR Kendall-Tau correlation (currently the greatest of the estimate from the full historical time series, the immediate 250 observations prior to the analysis date, or the 250 observations associated with a relevant stress period) of each CP-Sovereign or Banking RF pair are assumed to approach one, modeling the simultaneous occurrence of losses. The Default Probabilities utilized under the proposed approach will reflect the greater of the average 1-year CP SN Default Probability and the Default Probability implied by a 500-bp spread level at the 1-year tenor.

Further, ICC proposes moving the current contagion GWWR P/L calculation from the 'Methodology' section to the 'General Wrong Way Risk and Contagion Stress Tests' section of the framework. ICC proposes adding language to the description of the current contagion GWWR P/L calculation, consisting of the correlation-weighted uncollateralized LGDs, to clarify that such scenario is considered extreme (as opposed to extreme but plausible). The extreme scenario is for information purposes only.

ICC proposes adding a new 'Guaranty Fund Sizing Sensitivity Analysis' section to the Stress Testing Framework, which describes ICC's approach to Guaranty Fund (''GF'') sizing. ICC's GF model aims to establish financial resources that are sufficient to cover hypothetical losses associated with the simultaneous credit events where up to five SNs are impacted. Currently, two of the selected SNs are CP SNs (*i.e.,* ''cover-2'' GF sizing) and the other three SNs are non-CP SNs. ICC proposes amending the framework to add an additional combination of impacted five SNs, for monitoring and comparison purposes. Specifically, ICC proposes analyzing three CP SNs (*i.e.,* ''cover-3'' GF sizing) and two non-CP SNs. This alternative combination analysis is intended to provide guidance to the ICC Risk Department and ICC Risk Committee in situations when changes to the GF sizing approach are considered. For example, if a cover-2 deficiency is observed under the current GF size configuration, ICC will analyze the results from the cover-3 analysis as a potential remedy to address the cover-2 deficiency. Monthly summary reports detailing the analysis will be provided to the ICC Risk Committee.

ICC also proposes changes to the Stress Testing Framework to ensure compliance with CFTC Regulation 17 CFR 39.36. Specifically, ICC proposes adding an 'Interest Rate Sensitivity Analysis' section to the Stress Testing Framework to ensure compliance with CFTC Regulation 17 CFR 39.36(b). Under the proposed analysis, ICC would shock the Euro and USD interest rate curves up and down to see which scenario lead to further erosion of the GF under the two worst spread based stress test scenarios. The addition of the interest rate sensitivity analysis will have no impact on ICC's GF sizing methodology. ICC also proposes changes to the 'Methodology' section of the Stress Testing Framework related to the calculation of the P/L attributable to sequential or simultaneous defaults, to ensure compliance with 17 CFR 39.36(a). Under the current framework, for each CP Affiliate Group (''AG''), the Specific Wrong Way Risk (''SWWR'') P/L shows losses associated with positions that are self referencing to that CP AG; the remaining GF is then calculated for each CP AG. Under the proposed changes, the SWWR P/L will be expanded to also reflect the accumulation of losses associated with defaulted CP specific exposure and re-labeled ''CP–WWR P/L'', where the new CP–WWR P/L for each CP AG will include losses associated with exposure to itself, *i.e.,* SWWR P/L, as well as on previously defaulted CP AG(s). Finally, ICC proposes edits to the 'Portfolio Selection' section of the Stress Testing Framework, to incorporate a description of ICC's current client stress testing practices. There are no changes being proposed to ICC's client stress testing practices; rather the proposed edits are designed to explicitly state and document ICC's current client stress testing practices. Specifically, ICC applies the stress test scenarios to all currently cleared portfolios consisting of a CP's House and/or Client accounts. ICC executes individual client legal entity stress testing at least monthly, and the results are reported on a monthly basis to the Risk Committee. The clients selected for analysis exhibit the largest stress loss over financial resources being tested for each of the top Futures Commission Merchants (''FCMs'') and Broker Dealers (''BDs'') with the largest client Initial Margin. This selection is designed to capture the clients with the largest risk exposure, who are deemed to be ''large traders.''

Liquidity Risk Management Framework

ICC proposes revisions to its Liquidity Risk Management Framework to ensure unification of the stress testing scenarios in the Liquidity Risk Management Framework and the Stress Testing Framework. ICC operates its stress testing and liquidity stress testing on a unified set of stress testing scenarios and system. As such, revisions to the liquidity stress testing scenarios are

[3] ''Default Probability'' as referenced throughout the ICC Stress Testing Framework and ICC Liquidity Risk Management Framework is calculated using the Open Source ISDA CDS Standard Model (available at *http://www.cdsmodel.com/cdsmodel/*).

necessary to ensure scenario unification, in light of the proposed changes to the stress testing scenarios related to ICC's clearing of SN CDS on its CPs.

Specifically, ICC proposes to revise the ''Hypothetically Constructed (Forward Looking) Extreme but Plausible Market Scenarios'' to ensure consistency with the proposed changes to the Stress Testing Framework to incorporate additional losses related to the ELGD of all names in a CP's portfolio, not limited to those in the Banking or Sovereign sectors. The ELGD amount will accumulate the LGD of all of the SNs in the portfolio that do not explicitly enter a state of default, weighted by the market observed 1-year end-of-day Default Probability.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act [4] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),[5] because ICC believes that the proposed rule changes will promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions. ICC's Stress Testing Framework describes ICC's stress testing practices, which are designed to ensure the adequacy of systemic risk protections. The Stress Testing Framework sets forth the methodology by which ICC evaluates potential portfolio profits/losses, compared to the Initial Margin and GF funds maintained, in order to identify any potential weakness in the risk methodology. The proposed changes to the Stress Testing Framework enhance ICC's approach to identifying potential weaknesses in the risk methodology. As such, the proposed rule changes are designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F) [6] of the Act. The proposed changes will also satisfy the requirements of Rule 17Ad–22.[7] In particular, the proposed changes to the stress testing practices set forth in the Stress Testing Framework ensure that ICC maintains sufficient financial resources to withstand a default by the CP family to which it has the largest exposure in extreme but plausible market conditions, consistent with the requirements of Rule 17Ad–22(b)(3).[8] Finally, the proposed changes to the Stress Testing Framework ensure regulatory compliance with CFTC regulations, including 17 CFR 39.36.

Further, the changes to the Liquidity Risk Management Framework to unify the liquidity stress testing scenarios with the stress testing scenarios set forth in Stress Testing Framework are necessary given the proposed changes to the Stress Testing Framework, as ICC operates its stress testing and liquidity stress testing on a unified set of stress testing scenarios and system. ICC's liquidity stress testing practices will continue to ensure the sufficiency of ICC's liquidity resources. As such, the proposed rule changes are designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F) [9] of the Act.

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule changes would have any impact, or impose any burden, on competition. To the extent the Stress Testing Framework and Liquidity Risk Management Framework changes impact CPs, the Stress Testing Framework and Liquidity Risk Management Framework apply uniformly across all CPs. Therefore, ICC does not believe the proposed rule changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICC–2017–012 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2017–012. 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 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. Copies of such filings will also be available for

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] *Id.*

[6] *Id.*

[7] 17 CFR 240.17Ad–22.

[8] 17 CFR 240.17Ad–22(b)(3).

[9] *Id.*

inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2017–012 and should be submitted on or before September 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18449 Filed 8–30–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81483; File No. SR–CBOE–2017–057]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend Interpretation and Policy .07 of Exchange Rule 4.11, Position Limits, To Increase the Position Limits for Options on Certain ETFs

August 25, 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 August 15, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''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 purpose of this filing is to amend Interpretation and Policy .07 of Exchange Rule 4.11, Position Limits, to increase the position limits for options on the following exchange traded funds (''ETFs'') and exchange traded notes (''ETNs''): iShares China Large-Cap ETF (''FXI''), iShares MSCI EAFE ETF (''EFA''), iShares MSCI Emerging Markets ETF (''EEM''), iShares Russell 2000 ETF (''IWM''), iShares MSCI EAFE ETF (''EFA''), iShares MSCI Brazil Capped ETF (''EWZ''), iShares 20+ Year Treasury Bond Fund ETF (''TLT''), iPath S&P 500 VIX Short-Term Futures ETN (''VXX''), PowerShares QQQ Trust (''QQQQ''), and iShares MSCI Japan Index [sic] (''EWJ'').

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Position limits are designed to address potential manipulative schemes and adverse market impact surrounding the use of options, such as disrupting the market in the security underlying the options. The potential manipulative schemes and adverse market impact are balanced against the potential of setting the limits so low as to discourage participation in the options market. Position limits for options on ETFs and ETNs, such as those subject to this proposal, are determined pursuant to Exchange Rule 4.11, and vary according to the number of outstanding shares and the trading volume of the underlying stocks, ETFs, or ETNs over the past six-months. Pursuant to Exchange Rule 4.11, the largest in capitalization and the most frequently traded stocks, ETFs, and ETNs have an option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization stocks, ETFs, and ETNs have position limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market. Options on FXI, EFA, EWZ, TLT, VXX, and EWJ are currently subject to the standard position limit of 250,000 contracts as set forth in Exchange Rule 4.11.[3] Interpretation and Policy .07 of Exchange Rule 4.11 sets forth separate position limits for options on specific ETFs and ETNs as follows:

- Options on EEM are 500,000 contracts;
- Options on IWM are 500,000 contracts; and
- Options on QQQQ are 900,000 contracts.

The purpose of this proposal is to amend Interpretation and Policy .07 to Exchange Rule 4.11 to double the position and exercise limits for FXI, EEM, IWM, EFA, EWZ, TLT, VXX, QQQQ, and EWJ.[4] As such, options on FXI, EFA, EWZ, TLT, VXX, and EWJ would no longer be subject to the standard position limits set forth under Exchange Rule 4.11. Accordingly, Interpretation and Policy .07 to Exchange Rule 4.11 would be amended to set forth that the position limits for option on FXI, EFA, EWZ, TLT, VXX, and EWJ would be 500,000 contracts. These position limits equal the current position limits for option on IWM and EMM and are similar to the current position limit for options on QQQQ set forth in Interpretation and Policy .07 to Exchange Rule 4.11. Interpretation and Policy .07 to Exchange Rule 4.11 would be further amended to increase the position limits for the remaining options subject to this proposal as follows:

- The position limits for options on EEM would be increased from 500,000 contracts to 1,000,000 contracts;
- The position limits on options on IWM would be increased from 500,000 contracts to 1,000,000 contracts; and
- The position limits on options on QQQQ would be increased from 900,000 contracts to 1,800,000 contracts.

In support of this proposal, the Exchange represents that the above listed ETFs and ETNs qualify for either: (i) The initial listing criteria set forth in Exchange Rule 5.3.06(C) for ETFs holding non-U.S. component securities; or (ii) for ETFs and ETNs listed pursuant to generic listing standards for series of portfolio depository receipts and index fund shares based on

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See https://www.theocc.com/webapps/delo-search.*

[4] By virtue of Exchange Rule 4.12, Interpretation and Policy .02, which is not being amended by this filing, the exercise limit for FXI, EEM, IWM, EFA, EWZ, TLT, VXX, QQQQ, and EWJ options would be similarly increased.

The Exchange also proposed to make non-substantive corrections to the names of IWM and EEM in Rule 4.11, Interpretation and Policy .07.

international or global indexes under which a comprehensive surveillance agreement (''CSA'') is not required.[5] FXI tracks the performance of the FTSE China 50 Index, which is composed of the 50 largest Chinese stocks.[6] EEM tracks the performance of the MSCI Emerging Markets Index, which is composed of approximately 800 component securities.[7] ''The MSCI Emerging Markets Index consists of the following 21 emerging market country indices: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Korea, Malaysia, Mexico, Morocco, Peru, Philippines, Poland, Russia, South Africa, Taiwan, Thailand, and Turkey.'' [8] IWM tracks the performance of the Russell 2000 Index, which is composed of 2,000 small-cap domestic stocks.[9] EFA tracks the performance of MSCI EAFE Index, which has over 900 component securities.[10] ''The MSCI EAFE Index is designed to represent the performance of large and mid-cap securities across 21 developed markets, including countries in Europe, Australasia and the Far East, excluding the U.S. and Canada.'' [11] EWZ tracks the performance of the MSCI Brazil 25/50 Index, which is composed of shares of large and mid-size companies in Brazil.[12] TLT tracks the performance of ICE U.S. Treasury 20+ Year Bond Index, which is composed of long-term U.S. Treasury bonds.[13] VXX tracks the performance of S&P 500 VIX Short-Term Futures Index Total Return. ''The Index is designed to provide access to equity market volatility through CBOE Volatility Index futures. The Index offers exposure to a daily rolling long position in the first and second month VIX futures contracts and reflects market participants' views of the future direction of the VIX index at the time of expiration of the VIX futures contracts comprising the Index.'' [14] QQQQ tracks the performance of the Nasdaq-100 Index, which is composed of 100 of the largest domestic and international nonfinancial companies listed on the Nasdaq Stock Market LLC (''Nasdaq'').[15] EWJ tracks the MSCI Japan Index, which tracks the performance of large and mid-sized companies in Japan.[16]

CBOE represents that more than 50% of the weight of the securities held by the options subject to this proposal are also subject to a CSA.[17] Additionally, the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any one country that is not subject to a CSA do not represent 20% or more of the weight of the MSCI Emerging Markets Index.[18] Finally, the component securities of the MSCI Emerging Markets Index on which EEM is based, for which the primary market is in any two countries that are not subject to CSAs do not represent 33% of more of the weight of the MSCI Emerging Markets Index.[19]

Market participants have increased their demand for options on FXI, EFA, EWZ, TLT, VXX, and EWJ for hedging and trading purposes and the Exchange believes the current position limits are too low and may be a deterrent to successful trading of options on these securities. The Exchange has the collected following trading statistics on the ETFs and ETNs that are subject to this proposal:

ETF	2017 ADV (mil. shares)	2017 ADV (option contracts)	Shares outstanding (mil.)	Fund market cap ($mil.)
FXI	15.08	71,944	78.6	$3,343.6
EEM	52.12	287,357	797.4	34,926.1
IWM	27.46	490,070	253.1	35,809.1
EFA	19.42	98,844	1178.4	78,870.3
EWZ	17.08	95,152	159.4	6,023.4
TLT	8.53	80,476	60.0	7,442.4
VXX	55.04	336,331	96.7	1,085.6
QQQQ	26.25	579,404	351.6	50,359.7
EWJ	6.06	4,715	303.6	16,625.1
SPY	64.63	2,575,153	976.23	240,540.0

In support of its proposal to increase the position limits for QQQQ to 1,800,000 contracts, the Exchange compared the trading characteristics of QQQQ to that of the SPDR S&P 500 ETF (''SPY''), which has no position limits. As shown in the above table, the average daily trading volume through August 14, 2017 for QQQQ was 26.25 million shares compared to 64.63 million shares for SPY. The total shares outstanding for QQQQ are 351.6 million compared to 976.23 million for SPY. The fund market cap for QQQQ is $50,359.7 million compared to $240,540 million for SPY. SPY is one of the most actively trading ETFs and is, therefore, subject to no position limits. QQQQ is also very actively traded, and while not to the level of SPY, should be subject to the proposed higher position limits based its trading characteristics when compared to SPY. The proposed position limit coupled with QQQQ's trading behavior would continue to address potential manipulative schemes and adverse market impact surrounding the use of options and trading in its underlying the options.

In support of its proposal to increase the position limits for EEM and IWM from 500,000 contracts to 1,000,000 contracts, the Exchange compared the trading characteristics of EEM and IWM to that of QQQQ, which currently has a position limit of 900,000 contracts. As shown in the above table, the average daily trading volume through July 31, 2017 for EEM was 52.12 million shares

[5] The Exchange notes that the initial listing criteria for options on ETFs and ETNs that hold non-U.S. component securities are more stringent than the maintenance listing criteria for those same ETF options. *See* Exchange Rule 5.3.06(C); Exchange Rule 5.4.08.

[6] *See https://www.ishares.com/us/products/239536/ishares-china-largecap-etf.*

[7] *See http://us.ishares.com/product_info/fund/overview/EEM.htm.*

[8] *See http://www.msci.com/products/indices/tools/index.html#EM.*

[9] *See https://www.ishares.com/us/products/239710/ishares-russell-2000-etf.*

[10] *See https://www.ishares.com/us/products/239623/.*

[11] *See https://www.msci.com/eafe.*

[12] *See https://www.ishares.com/us/products/239612/ishares-msci-brazil-capped-etf.*

[13] *See https://www.ishares.com/us/products/239454/.*

[14] *See http://www.ipathetn.com/US/16/en/details.app?instrumentId=259118.*

[15] *See https://www.invesco.com/portal/site/us/financial-professional/etfs/product-detail?productId=QQQ&ticker=QQQ&title=powershares-qqq.*

[16] *See https://www.ishares.com/us/products/239665/EWJ.*

[17] *See* Exchange Rule 5.3.06(C).

[18] *See* Exchange Rule 5.3.06(C)(ii)(b).

[19] *See* Exchange Rule 5.3.06(C)(ii)(c).

and IWM was 27.46 million shares compared to 26.25 million shares for QQQQ. The total shares outstanding for EEM are 797.4 million and for IWM are 253.1 million compared to 351.6 million for QQQQ. The fund market cap for EEM is $34,926.1 million and IWM is $35.809 [sic] million compared to $50,359.7 million for QQQQ. EEM, IWM and QQQQ have similar trading characteristics and subjecting EEM and IWM to the proposed higher position limit would continue be designed to address potential manipulate schemes that may arise from trading in the options and their underlying securities. These above trading characteristics for QQQQ when compared to EEM and IWM also justify increasing the position limit for QQQQ. QQQQ has a higher options ADV than EEM and IWM, a higher numbers of shares outstanding than IWM and a much higher market cap than EEM and IWM which justify doubling the positon limit for QQQQ. Based on these statistics, and as stated above, the proposed position limit coupled with QQQQ's trading behavior would continue to address potential manipulative schemes and adverse market impact surrounding the use of options and trading in its underlying the options.

In support of its proposal to increase the position limits for FXI, EFA, EWZ, TLT, VXX, and EWJ from 250,000 contracts to 500,000 contracts, the Exchange compared the trading characteristics of FXI, EFA, EWZ, TLT, VXX and EWJ to that of EEM and IWM, both of which currently have a position limit of 500,000 contracts. As shown in the above table, the average daily trading volume through July 31, 2017 for FXI is 15.08 million shares, EFA is 19.42 million shares, EWZ is 17.08 million shares, TLT is 8.53 million shares, VXX is 55.04 million shares, and EWJ is 6.06 million shares compared to 52.12 million shares for EEM and 27.46 million shares for IWM. The total shares outstanding for FXI is 78.6 million, EFA is 1178.4 million, EWZ is 159.4 million, TLT is 60 million, VXX is 96.7 million, and EWJ is 303.6 million compared to 797.4 million for EEM and 253.1 million for IWM. The fund market cap for FXI is $3,343.6 million, EFA is $78,870.3 million, EWZ is $6,023.4 million, TLT is $7,442.4 million, VXX is $1,085.6 million, and EWJ is $16,625.1 million compared to $34.926.1 [sic] million for EEM and $35,809.1 million for IWM.

Market participants' trading activity has been adversely impacted by the current position limits for FXI, EFA, EWZ, TLT, VXX and EWJ and such limits have caused options trading in these symbols to move from exchanges to the over-the-counter market. The above trading characteristics of FXI, EFA, EWZ, TLT, VXX and EWJ is either similar to that of EEM and IWM or sufficiently active enough so that the proposed limit would continue to address potential manipulative that may arise. Specifically, VXX has an average daily trading volume similar to EEM and higher than IWM. VXX has an options volume higher than EEM, more shares outstanding than IWM and a larger fund market cap than both EEM and IWM. EFA has far more shares outstanding and a larger fund market cap than EEM, IWM, and QQQQ. EWJ has a more shares outstanding than IWM and only slightly less shares outstanding than QQQQ.

On the other hand, while FXI, EWZ, and TLT do not exceed EEM, IWM or QQQQ is any of the specified areas, they are all actively trading so that market participant's trading activity has been impacted by them being restricted by the current position limits. The Exchange believes that the trading activity and these securities being based on a broad basket of underlying securities alleviates any potential manipulative activity that may arise. In addition, as discussed in more detail below, the Exchange's existing surveillance procedures and reporting requirements at the Exchange, other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity.

The Exchange believes that increasing the position limits for the options subject to this proposal would lead to a more liquid and competitive market environment for these options, which will benefit customers interested in this product. Under the proposal, the reporting requirement for the above options would be unchanged. Thus, the Exchange would still require that each Trading Permit Holder (''TPH'') or TPH organization that maintains a position in the options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information would include, but would not be limited to, the options' position, whether such position is hedged and, if so, a description of the hedge, and the collateral used to carry the position, if applicable. Exchange Market-Makers [20] (including Designated Primary Market-Makers) [21] would continue to be exempt from this reporting requirement, as Market-Maker information can be accessed through the Exchange's market surveillance systems. In addition, the general reporting requirement for customer accounts that maintain an aggregate position of 200 or more options contracts would remain at this level for the options subject to this proposal.[22]

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange, other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity. In addition, routine oversight inspections of the Exchange's regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted. These procedures utilize daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both options and underlying stocks.[23]

Furthermore, large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G.[24] The positions for options subject to this proposal are part of any reportable positions and, thus, cannot be legally hidden. Moreover, the Exchange's requirement that TPHs file reports with the Exchange for any customer who held aggregate large long or short positions of any single class for the previous day will continue to serve as an important part of the Exchange's surveillance efforts.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a TPH or its customer may try to maintain an inordinately large un-hedged position in the options subject to this proposal. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a TPH must maintain for a large position held by itself or by its

[20] A Market-Maker ''is an individual Trading Permit Holder or a TPH organization that is registered with the Exchange for the purpose of making transactions as dealer-specialist on the Exchange in accordance with the provisions of this Chapter.'' *See* Exchange Rule 8.1.

[21] A Designated Primary Market-Maker ''is TPH organization that is approved by the Exchange to function in allocated securities as a Market-Maker (as defined in Rule 8.1) and is subject to the obligations under Rule 8.85 or as otherwise provided under the rules of the Exchange.'' *See* Exchange Rule 8.80(a).

[22] *See* Exchange Rule 4.13 for reporting requirements.

[23] These procedures have been effective for the surveillance of trading the options subject to this proposal and will continue to be employed.

[24] 17 CFR 240.13d–1.

customer.[25] In addition, Rule 15c3–1 [26] imposes a capital charge on TPHs to the extent of any margin deficiency resulting from the higher margin requirement.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[27] In particular, the proposal is consistent with Section 6(b)(5) of the Act [28] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The current position limits for the options subject to this proposal have inhibited the ability of Market Makers to make markets on the Exchange. Specifically, the proposal is designed to encourage Market Makers to shift liquidity from over the counter markets onto the Exchange, which will enhance the process of price discovery conducted on the Exchange through increased order flow. The proposal will also benefit institutional investors as well as retail traders, and public customers, by providing them with a more effective trading and hedging vehicle. In addition, the Exchange believes that the structure of the ETFs and ETNs subject to this proposal and the considerable liquidity of the market for options on those ETFs and ETNs diminishes the opportunity to manipulate this product and disrupt the underlying market that a lower position limit may protect against.

Increased position limits for select actively traded options, such as that proposed herein, is not novel and has been previously approved by the Commission. For example, the Commission has previously approved, on a pilot basis, eliminating position limits for options on.[29] Additionally, the Commission has approved similar proposed rule changes to increase position limits for options on highly liquid, actively-traded ETFs,[30] including a proposal to permanently eliminate the position and exercise limits for options overlaying the S&P 500 Index, S&P 100 Index, Dow Jones Industrial Average, and Nasdaq 100 Index.[31] In approving the permanent elimination of position and exercise limits, the Commission relied heavily upon the Exchange's surveillance capabilities, the Commission expressed trust in the enhanced surveillance and reporting safeguards that the Exchange took in order to detect and deter possible manipulative behavior which might arise from eliminating position and exercise limits.[32] Furthermore, as described more fully above, options on other ETFs a have the position limits proposed herein with similar trading characteristics and trading volumes than similar to the ETFs and ETNs subject to the proposed rule change.

Lastly, the Commission expressed the belief that removing position and exercise limits may bring additional depth and liquidity without increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.[33] The Exchange's enhanced surveillance and reporting safeguards continue to be designed to deter and detect possible manipulative behavior which might arise from eliminating position and exercise limits.

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. On the contrary, the Exchange believes the proposal promotes competition because it will enable other exchanges who refer to the Exchange's rules concerning position limits to attract additional order flow from the over-the-counter market to exchanges, who would in turn compete amongst each other for those orders.[34] The Exchange believes that the proposed rule change will result in additional opportunities to achieve the investment and trading objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–057 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–CBOE–2017–057. This file number should be included on the subject line if email is used. To help the Commission process and review your

[25] *See* Exchange Rule 12.3 for a description of margin requirements.

[26] 17 CFR 240.15c3–1.

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] *See* Securities Exchange Act Release Nos. 67672 (August 15, 2012), 77 FR 50750 (August 22, 2012) (SR–NYSEAmex–2012–29); 67937 (September 27, 2012), 77 FR 60489 (October 3, 2012) (SR–CBOE–2012–091).

[30] *See* Securities Exchange Act Release Nos. 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR–CBOE–2012–066); 64928 (July 20, 2011), 76 FR 44633 (July 26, 2011) (SR–CBOE–2011–065); 64695 (June 17, 2011), 76 FR 36942 (June 23, 2011) (SR–PHLX–2011–58); *and* 55155 (January 23, 2007), 72 FR 4741 (February 1, 2017) (SR–CBOE–2007–008.).

[31] *See* Securities Exchange Act Release Nos. 44994 (October 26, 2001), 66 FR 55722 (November 2, 2001) (SR–CBOE–2001–22); 52650 (October 21, 2005), 70 FR 62147 (October 28, 2005) (SR–CBOE–2005–41) (''NDX Approval'').

[32] *See* NDX Approval at 62149.

[33] *Id.*

[34] For example, Nasdaq position limits are determined by the position limits established by the Exchange. *See* Nasdaq Rule Sec. 7 (Position Limits).

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–CBOE–2017–057 and should be submitted on or before September 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18446 Filed 8–30–17; 8:45 am]

BILLING CODE 8011–01–P

[35] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 10105]

Industry Advisory Group: Notice of Charter Renewal

The Department of State has approved the renewal of the charter for the Bureau of Overseas Buildings Operations' (OBO) Industry Advisory Group for an additional two-year period. The group's annual meeting is held in the Harry S Truman Building at the U.S. Department of State, located at 2201 C Street NW., Washington, DC. Each meeting is devoted to an exchange of ideas between OBO's senior management and the group members on issues relating to property management; site acquisition; project planning; design and engineering; construction; facility maintenance; and building operations. The meetings are open to the public and are subject to advance registration and provision of required security information. Procedures for registration are included with each meeting announcement, no later than fifteen business days before each meeting.

OBO's mission is to provide safe, secure and functional facilities that represent the U.S. government to the host nation and support our staff in the achievement of U.S. foreign policy objectives. These facilities represent American values and the best in American architecture, engineering, technology, sustainability, art, culture, and construction execution.

For further information, please contact Christine Foushee at 312–353–1242 or *FousheeCT@state.gov.*

William Moser,

Director, Acting, Overseas Buildings Operations, Department of State.

[FR Doc. 2017–18507 Filed 8–30–17; 8:45 am]

BILLING CODE 4710–51–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 303 (Sub-No. 48X)]

Wisconsin Central Ltd.—Discontinuance of Service Exemption—in Waupaca County, Wis

Wisconsin Central Ltd. (WCL) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over approximately 10.3 miles of rail line extending from milepost 40.0 in New London, Wis. to milepost 50.3 in Manawa, Wis., Waupaca County, Wis. (the Line). The Line traverses United States Postal Service Zip Code 54949 and 54961.

WCL has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic on the Line needs to be rerouted; (3) no formal complaint filed by a user of a rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective September 30, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2),[1] must be filed by September 8, 2017.[2] Petitions for reconsideration must be filed by September 30, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with Board should be sent to WCL's representative, Audrey L. Brodrick, Fletcher & Sippell LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our Web site at ''*WWW.STB.GOV.*''

Decided: August 28, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Marline Simeon,

Clearance Clerk.

[FR Doc. 2017–18483 Filed 8–30–17; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1244X]

Columbia & Cowlitz Railway, LLC—Abandonment Exemption—in Cowlitz County, Wash

Columbia & Cowlitz Railway, LLC (CLC), has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* to abandon an approximately 7-mile rail line between milepost 1.5 at Longview and milepost 8.5 at Ostrander Junction,

[1] Each OFA must be accompanied by the filing fee, which currently is set at $1,700. *See* 49 CFR 1002.2(f)(25). Effective on September 1, 2017, the fee will increase to $1,800. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update,* EP 542 (Sub-No. 25) (STB served July 28, 2017).

[2] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

in Cowlitz County, Wash. (the Line).[1] The Line traverses United States Postal Service Zip Codes 98632 and 98636 and includes the Milco station at milepost 4.25 and the Rocky Point station at milepost 6.0.

CLC has certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 30, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 8, 2017. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 20, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Melanie B. Yasbin, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

CLC has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 5, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CLC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CLC's filing of a notice of consummation by August 31, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *WW.STB.GOV.*

Decided: August 28, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Marline Simeon,

Clearance Clerk.

[FR Doc. 2017–18484 Filed 8–30–17; 8:45 am]

BILLING CODE 4915–01–P

[1] In a concurrently filed joint verified notice of exemption, CLC seeks to discontinue service over, and Patriot Woods Railroad, LLC, seeks to abandon, approximately 21.50-miles of connecting rail line between milepost 8.5 at Ostrander Junction and the end of the line at milepost 30, in Cowlitz County, Wash. *See Columbia & Cowlitz Ry.—Discontinuance of Serv. Exemption—in Cowlitz Cty., Wash.,* Docket No. AB 1244 (Sub-No. 1X) and *Patriot Woods R.R.—Aban. Exemption—in Cowlitz Cty., Wash.,* Docket No. AB 1243X.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,700. *See* 49 CFR 1002.2(f)(25). Effective September 1, 2017, the fee will become $1,800. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update,* EP 542 (Sub-No. 25), slip op. App. C at 20 (STB served July 28, 2017).

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1243X; Docket No. AB 1244 (Sub-No. 1X]

Patriot Woods Railroad, LLC—Abandonment Exemption—in Cowlitz County, Wash.; Columbia & Cowlitz Railway, LLC—Discontinuance of Service Exemption—in Cowlitz County, Wash

Patriot Woods Railroad, LLC (PW) and Columbia & Cowlitz Railway, LLC (CLC) (collectively, Applicants), have jointly filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for PW to abandon, and for CLC to discontinue service over, an approximately 21.50-mile rail line between milepost 8.5 at Ostrander Junction and the end of the line at milepost 30 in Cowlitz County, Wash. (the Line).[1] The Line traverses United States Postal Service Zip Codes 98611, 98626, and 98649 and includes the Headquarters station at milepost 14.2 and the Landfill station at milepost 16.2.

Applicants have certified that: (1) No local or overhead traffic has moved over the Line for at least two years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

Where, as here, the carrier is abandoning its entire line, the Board does not normally impose labor protection under 49 U.S.C. 10502(g), unless the evidence indicates the existence of: (1) A corporate affiliate that will continue substantially similar rail operations; or (2) A corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations by its subsidiary railroad. *See Honey Creek R.R.—Aban. Exemption—in Henry Cty., Ind.,* AB 865X (STB served Aug. 20,

[1] In a concurrently filed verified notice of exemption, CLC seeks to abandon approximately 7 miles of connecting rail line between milepost 1.5 at Longview and milepost 8.5 at Ostrander Junction, in Cowlitz County, Wash. *See Columbia & Cowlitz Ry.—Aban. Exemption—in Cowlitz Cty., Wash.,* Docket No. AB 1244X.

2004); *Wellsville, Addison & Galeton R.R.—Aban.,* 354 I.C.C. 744 (1978); and *Northampton & Bath R.R.—Aban.,* 354 I.C.C. 784 (1978). According to PW, after abandonment PW's parent company and corporate affiliate will not continue similar operations, nor will PW's parent company realize substantial financial benefits over and above relief from the burden of its subsidiary railroad. Therefore, employee protection conditions will not be imposed.

Any employee of CLC adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on September 30, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 8, 2017. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 20, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Melanie B. Yasbin, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 5, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), PW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by PW's filing of a notice of consummation by August 31, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: August 28, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Marline Simeon,

Clearance Clerk.

[FR Doc. 2017–18494 Filed 8–30–17; 8:45 am]

BILLING CODE 4915–01–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,700. *See* 49 CFR 1002.2(f)(25). Effective September 1, 2017, the fee will become $1,800. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update,* EP 542 (Sub-No. 25), slip op. App. C at 20 (STB served July 28, 2017).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Reinstatement Approval of Information Collection: Notice of Proposed Outdoor Laser Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to reinstate a previously approved information collection. In order for the FAA to ensure safety it proposes to collect information from potential outdoor laser operators. The FAA will review the proposed laser activity against air traffic operations and verify that the laser operation will not interfere with air traffic operations.

DATES: Written comments should be submitted by October 30, 2017.

ADDRESSES: Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP–110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Barbara Hall by email at: *Barbara.L.Hall@faa.gov;* phone 940–594–5913.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0662.

Title: Notice of Proposed Outdoor Laser Operations.

Form Numbers: FAA Form AC 7140–1.

Type of Review: Reinstatement of an information collection.

Background: The FAA will use the information gathered from laser operators planning to conduct outdoor laser operations to evaluate potential hazards to aircraft operating in the National Airspace System (NAS). Ultimately, the goal is to prevent an aircraft from being hit by the laser operation. The information will be reviewed by one of the three FAAs service centers and sent to the facility, which can be a Tower, TRACON or Center, that is being impacted by the operation. The faculty will review the proposed operation and state no objection or list an objection to the operation. If the facility lists an objection, then the service center will contact the proponent and see if adjustments can be made to the proposed operation.

Respondents: Approximately 405 laser operations.

Frequency: One time per laser operation.

Estimated Average Burden per Response: Approximately 4 hours per form.

Estimated Total Annual Burden: An estimated 1,620 hours.

Issued in Washington, DC, on August 24, 2017.

Barbara Hall,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2017–18509 Filed 8–30–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; EEO Complaint Forms

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before October 30, 2017.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: EEO Complaint Form.

OMB Control Number: 1505–XXXX.

Type of Review: New Collection.

Abstract: Title 29 of the United States Code of Federal Regulations (CFR) part 1614, directs agencies to maintain a continuing program to promote equal opportunity and to identify and eliminate discriminatory practices and policies. The Department of the Treasury (Department) is thus required to process complaints of employment discrimination from Department employees, former employees and applicants for jobs with the Department who claim discrimination based on their membership in a protected class, such as, race, color, religion, sex (including pregnancy, sexual orientation and gender identity), national origin, age (over 40), disability, genetic information, or retaliation for engaging in prior protected activity. Claims of discrimination based on parental status are processed as established by Executive Order 11478 (as amended by Executive Order 13152). Federal agencies must offer pre-complaint ''informal'' counseling and/or Alternative Dispute Resolution (ADR) to these ''aggrieved individuals'' (the aggrieved), claiming discrimination by officials of the Department. If the complaint is not resolved during the informal process, agencies must issue a Notice of Right to File a Complaint of Discrimination form to the aggrieved. This information is being collected for the purpose of processing informal and formal complaints of employment discrimination against the Department on the bases of race, color, religion, sex (including pregnancy, sexual orientation and gender identity), national origin, age (over 40), disability, genetic information, parental status, or retaliation. Pursuant to 29 CFR 1614.105, the aggrieved must participate in pre-complaint counseling to try to informally resolve his/her complaint prior to filing a complaint of discrimination. Information provided on the pre-complaint forms may be used by the aggrieved to assist in determining if she or he would like to file a formal complaint against the Department.

The information captured on these forms will be reviewed by the staff of the Department's Office of Civil Rights and Diversity to frame the claims for investigation and determine whether the claims are within the parameters established in 29 CFR part 1614. In addition, data from the complaint forms is collected and aggregated for the purpose of discerning whether any Department of the Treasury policies, practices or procedures may be curtailing the equal employment opportunities of any protected group.

Form: Agreement to Extend Counseling with an Extension, Class Complaint, ADR Election Form, Agreement to Extend Counseling without Mediation, Designation of Representative and Limited Power of Attorney.

Affected Public: Individuals and Households.

Estimated Total Annual Burden Hours: 44.07.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 25, 2017.

Jennifer P. Leonard,

Treasury PRA Clearance Officer.

[FR Doc. 2017–18457 Filed 8–30–17; 8:45 am]

BILLING CODE 4810–25–P

FEDERAL REGISTER

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Part II

Department of Homeland Security

Coast Guard

46 CFR Parts 401, 403, and 404

Great Lakes Pilotage Rates—2017 Annual Review; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401, 403, and 404

[USCG–2016–0268]

RIN 1625–AC34

Great Lakes Pilotage Rates—2017 Annual Review

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: In this final rule, the Coast Guard is setting new rates for the 2017 shipping season for pilotage services on the Great Lakes. The Coast Guard is also updating its methodology for setting these rates. These updates to the methodology will incorporate the income generated from weighting factors into the ratemaking methodology used to set rates in this and future rulemakings. The Coast Guard believes that the new rates will continue to encourage pilot retention, ensure safe, efficient, and reliable pilotage services on the Great Lakes, and provide adequate funds to upgrade and maintain infrastructure.

DATES: This final rule is effective October 2, 2017.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Todd Haviland, Director, Great Lakes Pilotage, Coast Guard; telephone 202–372–2037, email *todd.a.haviland@uscg.mil.*

Executive Summary

This final rule amends the Coast Guard's Great Lakes pilotage regulations by revising the current methodology by which the Coast Guard sets base rates for U.S. pilotage service on the Great Lakes, as well as revises the pilotage rates for the remaining portion of the 2017 shipping season. The new methodology adjusts target pilot compensation by inflation, incorporates revenue derived from weighting factor charges into the ratemaking model, and eliminates the provision that the hourly pilotage rate for designated waters could not rise above twice the rate for undesignated waters. We believe that the new methodology will continue to encourage pilot retention, ensure safe, efficient, and reliable pilotage services on the Great Lakes, and provide adequate funds to upgrade and maintain infrastructure.

In addition to the changes in ratemaking methodology, this final rule makes several other additions to Great Lakes Pilotage regulations. It adds new language to billing practices for cancellation charges, clarifying that the minimum charge for canceling the request for a pilot is four hours plus reasonable travel expenses. The final rule also inserts a new mandatory change point at the Iroquois Lock point, ensuring that pilots are adequately rested on this stretch of water. Finally, we have made some textual changes to the regulations to better convey their intent, renaming the ''return on investment'' as ''working capital fund,'' and renaming the 2016 final rule staffing model as the ''seasonal staffing model.''

Based on comments received, several items proposed in the NPRM were not adopted in this final rule. The Coast Guard has chosen not to adopt the 2107 NPRM staffing model, based on compelling arguments that this model did not accurately reflect the unpredictable workload of Great Lakes pilots. Furthermore, we did not move forward on our proposal to move the deadline for audited financial reports from April to January, based on commenters' arguments that this practice would impose hardship out of proportion to its benefit.

Based on updated financial information, increased pilot compensation, the new weighting factor calculations, and other changes to the ratemaking methodology, the revised Great Lakes pilotage rates are being lowered in most areas. We believe that this is a needed correction to better align our projected revenues with the pilot associations' actual collections, as evidence shows that pilotage revenue significantly exceeded what was projected in 2016, even factoring in above-average traffic. The changes in the rates are as follows:

TABLE E–1—CHANGES IN PILOTAGE RATES

Area	Previous pilotage charges per hour ($)	New pilotage charges per hour ($)	Change per hour ($)
St. Lawrence River	580	601	+21
Lake Ontario	398	408	+10
Navigable waters from Southeast Shoal to Port Huron, MI	684	580	−104
Lake Erie	448	429	−19
St. Mary's River	528	514	−14
Lakes Huron, Michigan, and Superior	264	218	−46

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations
II. Regulatory History
III. Basis and Purpose
IV. Discussion of Comments and Changes
V. Regulatory Analyses
A. Regulatory Planning and Review
B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates Reform Act
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment

I. Abbreviations

APA American Pilots Association
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
GLPA Great Lakes Pilotage Authority
GLPAC Great Lakes Pilotage Advisory Committee
MM&P International Organization of Masters, Mates & Pilots
MOU Memorandum of Understanding
NPRM Notice of proposed rulemaking
RA Regulatory analysis
§ Section symbol
SNPRM Supplemental notice of proposed rulemaking
The Act Great Lakes Pilotage Act of 1960
U.S.C. United States Code

II. Regulatory History

The Coast Guard published a notice of proposed rulemaking (NPRM) for this final rule on October 19, 2016 (81 FR 72011), covering a range of issues including revised operational expenses,

a proposed new methodology for calculating pilotage numbers, the addition of a mandatory change point at Iroquois Lock, and revised base pilotage rates. In response, we received 21 public comment letters, covering a diverse range of subjects and providing a substantial amount of information. Subsequently, on April 5, the Coast Guard issued a supplemental notice of proposed rulemaking (SNPRM) proposing to add two additional steps to the ratemaking methodology, which would incorporate the additional revenues collected under 46 CFR 404.100 (the ''weighting factors'') into the ratemaking model. We received 11 public comment letters on the SNPRM.

The Coast Guard received numerous comments in response to the issues raised in the NPRM and SNPRM. These commenters have largely come from Great Lakes maritime shipping stakeholders—both the pilots that perform pilotage services as well as the shipping companies that pay the pilotage fees—as well as other interested parties. We have closely analyzed all of the comment letters and have, where appropriate, incorporated ideas and suggestions from the comments into the analysis of our final rule.

III. Basis and Purpose

The legal basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (the Act),[1] which requires U.S. vessels operating ''on register'' [2] and foreign vessels to use U.S. or Canadian registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system.[3] For the U.S.-registered Great Lakes pilots, the Act requires the Secretary to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.'' [4] We limit the allowable costs of providing this service by ensuring that all allowable expenses are necessary and reasonable for providing pilotage services on the Great Lakes. We believe the public is best served by a safe, efficient, and reliable pilotage service. The goal of our methodology and billing scheme is to generate sufficient revenue for the pilots to provide the service we require. The Act requires that base rates be established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. The Secretary has delegated authority under the Act to the Coast Guard.[5]

The purpose of this rule is to change our annual Great Lakes pilotage ratemaking methodology, set new rates using that methodology, authorize a temporary hiring and training surcharge, and make several other adjustments. For more information on the goals and proposals in this rulemaking, see the discussion section in the NPRM [6] and SNPRM.[7]

IV. Discussion of Comments and Changes

In this section, the Coast Guard reviews the comments received, and provides responses accordingly. In instances where multiple commenters provided insight into similar issues, we have grouped those comments into general categories. Wherever possible, we have attempted to provide citations to the particular comment referenced, and have tried to verify any data provided by the commenter. We have divided the comments up into four general categories: (1) General policy issues; (2) Rate calculation issues; (3) Incorporation of the weighting factors into the ratemaking methodology; and (4) Items for future consideration. These general categories have been further subdivided by issue, as discussed below.

A. General Policy Issues

The most frequently cited issue, raised by numerous commenters, concerned the costs of pilotage. In the NPRM, we proposed a variety of increases in pilotage rates. However, in the subsequent SNPRM, we proposed accounting for the weighting factor and thus lowered hourly pilotage rates accordingly. Numerous commenters, generally aligned with entities that ship goods or pay for shipping on the Great Lakes, made statements on the recent increases in the cost of pilotage over the last several years. For example, one commenter [8] stated that the proposed increase to U.S. pilotage rates constitutes a 15 percent increase, with a total increase of 99 percent since 2014, and that this is on top of a 94 percent increase already imposed on shippers since 2006. Other commenters [9] cited different, albeit similar figures, stating that pilotage costs have increased by 40 percent over three years, and cited the NPRM as saying that pilotage costs now constituted 19 percent of total voyage costs on the Saint Lawrence Seaway.

We acknowledge that the some pilotage rates have increased in the past few years. In our revisions to the methodology, we have eliminated several ancillary fees and changed the billing scheme to meet our goal of aligning projected revenues with the actual association collections. We agree that the total revenues needed by the 3 U.S. Great Lakes Pilot Associations has increased about 40 percent over the past three years if we include the temporary surcharges, after many years of the pilot associations being unable to collect the amount of money our projections indicated would be appropriate. The additional pilots added to ensure continued safe, efficient and reliable pilotage service are the primary reason for the recent rate increases. It is important to note, however, that we have revised the temporary surcharges requirements so the revenues collected for the temporary surcharges will be removed from the expense base of future rates to ensure that the shippers do not pay for the same expense twice. After carefully considering the comments and measuring and assigning values to the variables addressed in the ratemaking methodology, we believe the resultant pilotage rates are fair.

One commenter [10] argued that high pilotage rates were threatening the competitiveness of the St. Lawrence Seaway and Great Lakes system of shipping cargo, and that if the proposed rate increases for 2017 were instituted, shippers may reach a ''tipping point'' where they choose alternate means to ship cargo. The commenter did not provide supporting documentation for this assertion, and we disagree with this statement. Our data indicates that demand for pilotage service in 2016 was greater than 2015 and that demand for pilotage service through June 2017 is trending around 20 percent higher than the 10-year average for the 2017 shipping season.

Other commenters argued that the recent increases in pilotage rates were necessary. One commenter stated that the recent, comparatively large increases were needed to correct inadequate increases in the past, arguing that ''recent seemingly disproportionate increases [in pilotage rates] would have been unnecessary as they could have

[1] Public Law 86–555, 74 Stat. 259, as amended; currently codified as 46 U.S.C. Chapter 93.

[2] ''On register'' means that the vessel's certificate of documentation has been endorsed with a registry endorsement, and therefore, may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. 46 U.S.C. 12105, 46 CFR 67.17.

[3] 46 U.S.C. 9302(a)(1).

[4] *See* 46 U.S.C. 9303(f) for all of the Act's pilotage ratemaking requirements discussed in this paragraph.

[5] DHS Delegation No. 0170.1, para. II (92.f).

[6] 81 FR 72011 (October 19, 2016).

[7] 82 FR 2115 (May 5, 2017).

[8] See docket # USCG–2016–0268–0039, p.1.

[9] Docket # USCG–2016–0268–0019, p.1; docket # USCG–2016–0268–0020, p.1.

[10] Docket # USCG–2016–0268–0034, p.1.

been accommodated over time.'' [11] Another commenter argued that the concern over pilotage costs was disingenuous, stating that the vast majority of shippers' pilotage cost results from Canadian pilotage, which is entirely unaffected by the U.S. pilotage rates.[12]

We agree that the recent increases in pilotage rates since 2015 have been warranted. We are well aware that for many years the Coast Guard's methodology for calculating pilotage rates produced rates that failed to raise the target revenue. We have had years where actual revenue was above the target revenue, but below the revenue that we would have projected given the actual demand. In 2016, revenue was higher even than what we would have expected given the demand. While 2016 appears to be an outlier in that regard, it is our goal is to develop a methodology that aligns our projections with the actual amount of revenue the pilot associations generate based upon the realized demand for pilotage service. We believe that the methodology outlined in this final rule is a substantial improvement that will, on average, produce revenues that will cover operating expenses, pay for infrastructure maintenance and the training of new pilots, and offer compensation levels and a workload that will allow the pilot associations to recruit and retain pilots without producing excessive revenue to the detriment of shippers. We are willing to consider future adjustments as necessary to ensure revenue alignment. As discussed below, we believe that compensation levels are currently at a level that is effectively enticing pilots to join and stay in the workforce, and we are not substantially adjusting that in this final rule.

Difference in Pilotage Charges Between the United States and Canada

Several commenters complained that the cost of similar pilotage services differed depending on whether ships were assigned a U.S. or Canadian pilot, and that such differences were contrary to arrangements between the United States and Canada regarding cooperation in management of pilotage in the Great Lakes system. One commenter said that pilotage costs are much higher when the vessel is assigned a U.S. pilot, stating that ''[f]or example, the pilotage expense for a Class 4 vessel transiting from Thunder Bay to St. Lambert costs $39,490 when a Canadian pilot is used, and $29,327 more when a U.S. pilot provides pilotage services.'' [13] The commenter argued that such a disparity is contrary to the 2013 Memorandum of Understanding (MOU) between the U.S. and the Canadian Great Lakes Pilotage Authority (GLPA), which states that the parties ''intend to arrange for the establishment of regulations imposing comparable rates and charges.'' [14]

While the Coast Guard acknowledges that the rates for pilotage services are not identical, our rates for each given segment of a voyage are based upon an analysis of the historical pilotage hours and associated costs necessary to provide service on that segment. We cannot say how the Canadian GLPA determined the charges for corresponding voyage segments. We note that U.S. and Canadian pilots have different funding structures, infrastructure obligations, and compensation packages. There are other instances where U.S. pilotage rates are substantially lower than Canadian rates—for example, a harbor move on Lake Superior for a Class 2 vessel would cost $2,616.73 under Canadian rates, while the same move would cost only $607.20 under U.S. rates (both prices are in U.S. dollars). While some may argue the pilotage rates should be identical, we believe that the rates must primarily cover the cost of operating expenses, infrastructure maintenance, and fair compensation, which is how we have developed the current methodology. We are not offering an opinion as to how differences in infrastructure and compensation funding may alter the rate calculations by the Canadian association.

Finally, we also note that article 9 states that the MOU ''is not an international agreement and does not give rise to any international legal rights or obligations.'' The MOU is a non-binding agreement on cooperation between the Coast Guard and GLPA. The primary purpose of this document is to ensure an equitable share of work between the U.S. and Canadian registered pilots and coordinated pilotage service throughout the System. We interpret comparable rates to mean that the Coast Guard and GLPA will establish rates to cover costs incurred for providing pilotage service in the various areas, even though those costs may be different due to varying fee structures, distribution, labor costs, or other factors. For these reasons, while we acknowledge there are differences in the rates paid by the shipping companies, we still believe that basing the rates on the methodology described in this rulemaking is the most effective way to fund the U.S. Great Lakes pilot associations and necessary infrastructure.

Recruitment and Retention of Pilots

One of the main goals of raising pilotage fees in recent Coast Guard rulemakings has been to reduce pilot attrition and attract new pilots to the region, ensuring a healthy number of mariners capable of handling the shipping traffic safely and with minimal delays. In the 2016 final rule, we stated that, ''the [methodology established in the mid-1990s failed] to consider the totality of pilot time necessary to perform a given pilotage assignment, which often includes long transits to and from the vessel, resulting in low pilot compensation and overloaded work assignments.'' [15]

We received numerous comments from both pilots and shippers concerning pilot retention and attrition. Many commenters urged the Coast Guard to study pilot recruitment and retention factors, including the compensation of individual pilots, to determine the extent of the pilot retention problem and methods for combating low pilot retention. In response, we note that we have recently undertaken a target pilot compensation study, which we hope may help inform future rulemakings.

Pilots and pilot associations also offered comments pertaining to retention and attrition. The Western Great Lakes Pilots Association [16] presented a series of letters from pilots, including resignation letters and previous docket comments, explaining why they were resigning from the Association. These comments cited various reasons, including the risk of a downturn in traffic,[17] and a lack of guaranteed time with their families.[18] Similarly, other pilotage associations stated that Great Lakes pilots were paid substantially less than other U.S. marine pilots, and noted that certain pilots had left the Great Lakes for less prestigious positions in other areas.[19]

The Coast Guard has recognized the pilotage recruitment and retention

[11] Docket # USCG–2016–0268–0037, p.1.

[12] Docket # USCG–2016–0268–0028, p.2.

[13] Docket # USCG–2016–0268–0033, p.12.

[14] Docket # USCG–2016–0268–0033, p.12, citing ''Memorandum of Understanding, Great Lakes Pilotage, between the United States Coast Guard and the Great Lakes Pilotage Authority,'' Art. 7.

[15] 81 FR at 11908 (March 7, 2016).

[16] Docket # USCG–2016–0268–0027.

[17] Docket # USCG–2016–0268–0027, letter from Bruce Dunlap, Paul Radtke.

[18] Docket # USCG–2016–0268–0027, letter from Karl Hardesty, Rick Montoya.

[19] Docket # USCG–2016–0268–0027, letters from the Associated Branch Pilots of New Orleans, Association of Maryland Pilots.

challenges in the Great Lakes, but believes that the changes we have implemented in recent rulemakings have addressed those concerns. We note that while over the preceeding 10 years 31 pilots in the Great Lakes region voluntarily left pilot positions, only one pilot has left voluntarily in the past 3 years, a rate which is comparable to the extremely low voluntary quit rate for other U.S. pilotage associations. We believe that the new compensation levels, workload, ratemaking structures, and improvements to the billing scheme introduced in recent rulemakings have reduced attrition, and we are working closely with all stakeholders to ensure that wages, working conditions, and infrastructure concerns are addressed to increase the likelihood that well-trained pilots will remain with their associations until retirement.

Using Other Pilot Compensation as a Benchmark for GL Pilot Compensation

Many commenters suggested that the Coast Guard should be using salaries for other U.S. pilots as a benchmark, rather than Canadian salaries, and noted that U.S. pilots in other areas often make far more in compensation. One commenter, the President of the Associated Branch Pilots for the Port of New Orleans, noted that the average pilot compensation for a pilot in that association was $459,051, and stated that a $312,000 target compensation level ''would leave the Great Lakes pilots among the lowest paid pilots in America.'' [20] One commenter noted that using other U.S. pilot groups as a benchmark would make a comparison simpler, as the target compensation for many American pilots is set by state rate commissions and is publically available.[21] Similarly, one commenter stated that the Great Lakes pilot associations compete with other American associations for recruits, and thus those associations would be a more appropriate benchmark for compensation.[22] Several commenters [23] provided figures on the total compensation of pilots in some other American systems, stating that those figures were often significantly over $400,000 annually per pilot, which is higher than the compensation target the Coast Guard has set for Great Lakes pilots.

Conversely, the Great Lakes Shippers Association argued that the Coast Guard should not use the compensation of other American pilots as a basis for computing target compensation. The shipping association, as part of its comments on the use of a compensation benchmark,[24] stated that the Coast Guard should not equalize pilot compensation across disparate geographies.[25] The commenter argued that shipping is an inherently local affair, and that pilots are experts in particular bodies of water, so a comparison to other pilotage association would not necessarily be accurate. The commenter stated that Great Lakes pilotage ''differs significantly from pilotage anywhere else in the United States as it includes vast stretches of open, unobstructed water that require little or no pilot input, as well as being subject to an abbreviated, rather than year-round, shipping season.'' [26] The commenter also stated that there are both historical and practical reasons that local pilotage boards and commissions set rates locally, and that given differing barriers to entry, differing duration and intensity of pilotage duties, and other local factors means that ''the value and cost of pilotage services in one location differs significantly in degree and kind from the value and cost of pilotage services in another location.'' [27]

We recognize that there are a wide variety of factors that could be used for justifying both more and less compensation than pilots in other U.S. jurisdictions or Canadian pilots. While we believe, at this time, that a comparison with Canadian Great Lakes pilots offers the closest analogue, we are fully aware that there are still significant differences in the U.S. and Canadian compensation work schedules and compensation schemes, and as such, we intend to undertake a compensation study to better understand the wide array of factors at work. While that study should inform a future ratemaking, we believe that the current compensation target is a reasonable and comparable level because it is based on pilots that do substantially similar work on the same bodies of water. Our goal is to establish a target pilot compensation benchmark that promotes recruitment and retention without posing undue financial burden on shipping companies. We will ensure that we maintain transparency in our processes and calculations to establish and refine this benchmark.

10-Year Compensation Benchmark

One item addressed in the NPRM was new language in § 404.104 that would allow the Director to set compensation to a benchmark for a 10-year period. We stated that, when setting the compensation benchmark, we would set it based on the most relevant available non-proprietary information such as wage and benefit information from other pilotage groups (in the current case, based on Canadian Great Lakes pilot compensation cited in the 2016 NPRM). Subsequently, for a period of up to 10 years, the target compensation number would simply be adjusted for inflation. We noted that this would promote target compensation stability and rate predictability. As seen in the NPRM, where the Coast Guard noted a significant change in the relative value of the Canadian dollar that could have changed the target compensation figure significantly, resetting the compensation benchmark repeatedly could lead to large swings in year-to-year targets and have negative effects on the stability of pilot earnings.

Having reviewed the various comments on this issue as well as considered the ratemaking methodology generally, we believe that using a compensation benchmark to establish annual adjustments in target compensation is an efficient means to ensure rate stability. We believe that, at any time after a compensation benchmark is established, there may be grounds to review it. Use of a compensation benchmark promotes rate and compensation stability, while providing the Coast Guard with the flexibility to make improvements over time based on market conditions. For this reason, we are finalizing the proposed language in § 404.104.

Several commenters mentioned the compensation benchmark, but instead of discussing the use of a compensation benchmark generally, they discussed the inputs into the current compensation benchmark. One commenter argued that the Coast Guard should not base the compensation benchmark on the average compensation for other U.S. pilots. We note that this was never the proposal, and we merely proposed to use a benchmark. In the NPRM, we wrote that ''the compensation benchmark would be based on the most relevant available non-propriety information *such as* wage and benefit information from other pilotage groups'' [emphasis added].[28] We note that despite the use of that example of what a particular compensation benchmark

[20] Docket # USCG–2016–0268–0003, p.1.

[21] Docket # USCG–2016–0268–0028, p.6.

[22] Docket # USCG–2016–0268–0028, p.6.

[23] Docket # USCG–2016–0268–0028, p.7.

[24] We discuss the issue of the general use of a 10-year compensation benchmark in a separate section, but the commenter included their comments on the specific number for pilot compensation under that heading.

[25] Docket # USCG–2016–0268–0033, p.26–27.

[26] Docket # USCG–2016–0268–0033, p.28.

[27] Docket # USCG–2016–0268–0033, p.27.

[28] 81 FR 72027 (December 19, 2016).

could be, we did not propose to use another U.S. pilot group outside of the Great Lakes to establish target pilot compensation in our rulemaking. In the 2017 NPRM, the Coast Guard did not propose to set a new compensation benchmark, but instead merely proposed continuing to use the 2016 target compensation figure in its calculations, which was based on the comparison with Canadian salaries.

As discussed in the NPRM, we believe that the use of a compensation benchmark is a better method for starting the calculation for the compensation of pilots, as opposed to undertaking a complete re-evaluation of the compensation structure for U.S. pilots each year. The primary rationale is the promotion of workforce stability, which is necessary for the system to provide safe, efficient, and reliable pilotage. The Great Lakes pilotage system needs target pilot compensation stability to achieve and maintain workforce stability. As is common practice in many sectors of employment, levels of compensation that are highly volatile can lead to difficulty attracting and retaining qualified employees. Given the high skill levels and lengthy training requirements required of Great Lakes pilots, as well as the dynamic nature of the commodities trade that makes up much of the shipping traffic in the area, we do not believe that a full re-evaluation of compensation every year is conducive to maintaining a system of safe and reliable pilotage.

Request To Study Additional Items

Many commenters,[29] citing the high cost of pilotage, requested that the Coast Guard undertake additional studies of various related issues. Specifically, these commenters almost uniformly requested that the Coast Guard conduct additional research into (1) pilot recruitment and retention factors; (2) the role of pilotage rates on modal shift and Seaway competitiveness; and (3) efficiencies that can be achieved by streamlining the pilotage system.

The Coast Guard realizes that these issues are important, and may warrant more in-depth study. To that effect, the Coast Guard has commissioned a compensation study and an economic impact study to better inform our ratemaking process. Until these studies are completed, we are proceeding with the ratemaking methodology we describe in this final rule. We remain open to persons providing information about these important issues, and note that such information can always be provided to the Coast Guard or to the Great Lakes Pilotage Advisory Committee (GLPAC) outside the context of a particular ratemaking action.

Audit Deadline

Another item the Coast Guard discussed in its NPRM was a proposal to adjust § 403.300(c) to require submission of an unqualified audit by January 31 of each year, rather than the existing requirement that it be submitted on April 1. Our goal was to expedite the availability of audit information so it could be used in the publication of the NPRM by the next summer. The net result would be to reduce the delay between the actual expenses and their recoupment from 3 to 2 years. We requested comment on whether such a deadline would be feasible.

One commenter[30] supported the proposal, stating that they ''favor any measures that reduce the lag between receipt of actual revenue and expense data and rate-setting decisions.'' The commenter stated the Coast Guard should use the most recently available data to determine the target revenue. They argued that the Coast Guard should set up systems to document the invoices and source forms sent in throughout the shipping season, and then tally this information and use it as a point of validation when setting the target revenue in the following year's NPRM. The commenter also stated that the pilots have indicated they can produce monthly revenue reports for Coast Guard use, and that this information can be used to inform the Coast Guard's decision to terminate a surcharge or to revise rates to account for an over-generation of revenue.

However, most comments, including those from the 3 U.S. Great Lakes pilot associations on this issue, took the opposite stance. These comments were unanimously opposed to the proposed January 31 deadline stating that preparing audited financial statements by that date would be infeasible due to the tight time constraints, or if required, would be extremely expensive. Commenters noted that the requirement to provide numbers by this earlier date would require extensive effort and significantly increase costs, and we did not receive any recommendations for an alternate date.

Based on the feedback we received, we are not making any changes to the audit deadline at this time. We agree that we would like to reduce the lag time between the revenue and expense audits and the information we use for our rulemakings. However, based upon the comments from the pilot associations, at this time we do not believe that the reported costs of accelerating the reporting date to January 31 would be worth the reported increase in expense. We do note, however, that we will seek further input on this topic at a future GLPAC meeting.

Surcharge Shutoff Provision

In the NPRM, the Coast Guard proposed adding a requirement to the surcharge regulation in § 401.401. We proposed that once a pilot association collects the amount of money allowable for recoupment, the pilot association's authorization to collect that surcharge would terminate for the remainder of the shipping season. We proposed this to prevent surcharge receipts from exceeding the target amount, which will eliminate the need to make subsequent adjustments to the operating expenses for the following year.

One commenter[31] stated that the ''Industry Commenters support this proposal.'' The commenter suggested the Coast Guard should verify that the surcharge funds are only used for the purposes as outlined by the Coast Guard. The commenter stated that the ratepayers ''paid over $667,000 in excessive training fees collected by the pilot associations'' in 2015. They also stated it is in the ratepayers' interests that the Coast Guard not allow excessive fees, as there is no mechanism currently in place to repay these funds to the ratepayers. The commenter also recommended that the Coast Guard verify that the training fees are properly applied to training new pilots in each District,[32] and suggested the Coast Guard could achieve this by requiring the inclusion of the training fee information as a separate line item in the financial statements.

Based on the comments we received, we are finalizing the additions to the surcharge provision in § 401.401. We also note that the existing audit requirements for operating expenses include a line item for training expenses, so that it is clear how much money is expended for that purpose. Because of the three-year delay in the use of audited expenses, the training costs, which were introduced in the 2015 ratemaking for the Saint Lawrence Seaway Pilots Association, will be incorporated into, and adjusted for, the operating expenses for the 2018 ratemaking. The surcharge was expanded to the Lake Pilots Association and Western Great Lakes Pilots

[29] See, *e.g.,* docket # USCG–2016–0268–0019, p. 2; Docket # USCG–2016–0268–0020, p. 2.

[30] Docket # USCG–2016–0268–0033, p. 25.

[31] Docket # USCG–2016–0268–0033, p. 24.

[32] Docket # USCG–2016–0268–0033, p. 25.

Association in 2016. Therefore, these expenses will not be addressed until the 2019 Annual Rulemaking for these two associations.

Iroquois Lock

Finally, in the NPRM, we proposed adding a mandatory change point at the Iroquois Lock. While we did receive comments as to how this would affect the total number of pilots needed for the rate-setting calculations (which is discussed below), we did not receive any comments on the merits of the idea itself. We are therefore finalizing this provision without change in this final rule.

B. Rate Calculation Issues

In this section, we discuss the comments related to the specific ratemaking at issue for 2017, as well as lay out the method by which we arrived at the final 2017 rates. The ratemaking process is specified in 46 CFR 404, 101 through 110. Each section below corresponds to one of the sections in the CFR.

1. Recognition of Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). We reviewed the independent accountant's financial reports for each association's 2014 expenses and revenues.[33] In the NPRM, we accepted the final findings on the 2014 audit of association expenses, and presented the recognized expenses for each District.

We received information with regard to lobbying expenses associated with American Pilots Association (APA) dues. We attributed 15 percent of APA dues to legal fees in the NPRM. This should have been 5 percent.[34] We have adjusted the operating expenses to reflect this change.

We received comments from the three U.S. Great Lakes Pilot Associations regarding the exclusion of legal fees from recognized operating expenses. Specifically, in our review of the 2014 operating expenses, we did not recognize certain legal expenses from K&L Gates, totaling $47,256. The commenters stated that they did not understand why these expenses were not recognized and requested that we reclassify these expenses as allowable fees. We disagree that these K&L Gates legal fees should be included. We disallowed the fees for K&L Gates because we could not determine whether or not these funds were used for lobbying or legal services. Per the requirements in paragraph 404.2(b)(6), lobbying fees are not allowable expenses for reimbursement. We contacted the pilot associations to request additional documentation that these fees were associated with legal services and not lobbying, but we did not receive any documentation to show which costs were attributable to legal services, and which were attributable to lobbying work.

In addition, the three pilot associations requested that we recognize legal expenses in the amount of $75,049 incurred in their litigation against the Coast Guard regarding the 2014 final rule. This amount represents the difference between legal fees incurred and the amount the Coast Guard paid in its settlement with the pilot associations. Pursuant to § 404.2(6), expenses incurred against the United States are not recoupable as recognized operating expenses. The pilots argue that this section of the regulations was improperly adopted in the 2016 final rule. We do not believe that the 2017 Annual Rulemaking is the appropriate venue to address the procedural aspects of the 2016 final rule.

A commenter from the Lakes Pilots Association noted that certain operating expenses, relating to the payment of applicant pilot salaries, had been omitted from the operating expenses of District Two. Specifically, the commenter noted that payment of training salaries should be considered as an operating expense instead of treated as pilot compensation. We agree that as applicant pilots are not counted as pilots for the purposes of calculating general pilot compensation, and this occurred prior to the use of surcharges to pay for applicant pilot salaries, these salaries should be recognized as an operating expense. The surcharge provision for funding applicant pilots did not impact rates until 2015 and the 2014 Annual Rulemaking did not provide funding for this activity. Therefore, we added the amount, $281,588, to the operating expenses of District Two to recoup the 2014 expense incurred in training applicant pilots that year.

The recognized expenses for the various Districts are as follows:

TABLE 1—RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2014	District One		Total
	Designated	Undesignated	
	St. Lawrence River	Lake Ontario	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$302,547	$228,222	$530,769
Applicant Pilot subsistence/travel	0	12,996	12,996
License insurance	20,231	22,480	42,711
Applicant Pilot license insurance	0	1,760	1,760
Payroll taxes	78,067	64,130	142,197
Applicant Pilot payroll taxes	0	0	0
Other	479	378	857
Total other pilotage costs	401,324	329,966	731,290
Pilot Boat and Dispatch Costs:			
Pilot boat expense	130,741	103,173	233,914
Dispatch expense	0	0	0
Payroll taxes	9,797	7,732	17,529

[33] These reports are available in the docket for this rulemaking, see Docket # USCG–2016–0268–0056 through 0058.

[34] Docket # USCG–2016–0268–0037, p. 2.

TABLE 1—RECOGNIZED EXPENSES FOR DISTRICT ONE—Continued

Reported expenses for 2014	District One		Total
	Designated	Undesignated	
	St. Lawrence River	Lake Ontario	
Total pilot and dispatch costs	140,538	110,905	251,443
Administrative Expenses:			
Legal—general counsel	2,173	1,505	3,678
Legal—shared counsel (K&L Gates)	8,783	6,932	15,715
Legal—Coast Guard litigation	12,794	10,098	22,892
Insurance	21,829	17,226	39,055
Employee benefits	7,570	5,974	13,544
Payroll taxes	5,281	4,167	9,448
Other taxes	7,262	5,731	12,993
Travel	648	512	1,160
Depreciation/auto leasing/other	48,094	31,820	79,914
Interest	13,713	10,821	24,534
APA Dues	12,444	11,996	24,440
Utilities	8,916	418	9,334
Salaries	52,121	41,130	93,251
Accounting/Professional fees	5,142	4,058	9,200
Pilot Training	6,427	5,074	11,501
Applicant Pilot training	0	0	0
Other	8,866	6,546	15,412
Total Administrative Expenses	222,063	164,008	386,071
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	763,925	604,879	1,368,804
Proposed Adjustments (Independent CPA):			
Pilot subsistence/travel	−15,712	−12,401	−28,113
Payroll taxes	−87	−68	−155
Applicant Pilot payroll taxes	0	2,347	2,347
Total CPA Adjustments	−15,799	−10,122	−25,921
Proposed Adjustments (Director):			
APA Dues	−622	−600	−1,222
2015 Surcharge Adjustment*	−92,766	−72,887	−165,653
Legal—shared counsel (K&L Gates)	−8,783	−6,932	−15,715
Legal—Coast Guard litigation	−12,794	−10,098	−22,892
Total Director's Adjustments	−114,965	−90,517	−205,482
Total Operating Expenses (OpEx + Adjustments)	633,161	504,240	1,137,401

* District One collected $493,682 with an authorized 10 percent surcharge in 2015. The adjustment represents the difference between the collected amount and the authorized amount of $328,029 authorized in the 2015 final rule.

TABLE 2—RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2014	District Two		Total
	Undesignated	Designated	
	Lake Erie	SES to Port Huron	
Operating Expenses:			
Other Pilotage Costs:			
Applicant pilot salaries	$112,635	$168,953	$281,588
Pilot subsistence/travel	148,424	222,635	371,059
Applicant Pilot subsistence/travel	9,440	14,160	23,600
License insurance	52,888	79,333	132,221
Applicant Pilot license insurance	5,738	8,608	14,346
Payroll taxes	76,903	115,354	192,257
Applicant Pilot payroll taxes	8,344	12,516	20,860
Other	1,053	1,579	2,632
Total other pilotage costs	415,425	623,138	1,038,563
Pilot Boat and Dispatch Costs:			
Pilot boat expense	173,145	259,718	432,863
Dispatch expense	10,080	15,120	25,200
Employee benefits	72,662	108,992	181,654
Payroll taxes	8,472	12,707	21,179

TABLE 2—RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2014	District Two		Total
	Undesignated	Designated	
	Lake Erie	SES to Port Huron	
Total pilot and dispatch costs	264,359	396,537	660,896
Administrative Expenses:			
Legal—general counsel	2,680	4,020	6,700
Legal—shared counsel (K&L Gates)	4,984	7,476	12,460
Legal—Coast Guard litigation	8,371	12,557	20,928
Office rent	26,275	39,413	65,688
Insurance	9,909	14,863	24,772
Employee benefits	23,002	34,504	57,506
Payroll taxes	5,001	7,501	12,502
Other taxes	21,179	31,769	52,948
Depreciation/auto leasing/other	17,784	26,677	44,461
Interest	3,298	4,948	8,246
APA Dues	8,664	12,996	21,660
Utilities	15,429	23,144	38,573
Salaries	46,008	69,013	115,021
Accounting/Professional fees	9,410	14,115	23,525
Pilot Training	0	0	0
Other	11,343	17,012	28,355
Total Administrative Expenses	213,337	320,008	533,345
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	893,121	1,339,683	2,232,804
Proposed Adjustments (Independent CPA):			
Depreciation/auto leasing/other	3,322	4,982	8,304
Total CPA Adjustments	3,322	4,982	8,304
Proposed Adjustments (Director):			
APA Dues	−433	−650	−1,083
2015 Surcharge Adjustment*	−85,782	−128,672	−214,454
Legal—shared counsel (K&L Gates)	−4,984	−7,476	−12,460
Legal—Coast Guard litigation	−8,371	−12,557	−20,928
Total Director's Adjustments	−99,570	−149,355	−248,926
Total Operating Expenses (OpEx + Adjustments)	796,873	1,195,310	1,992,183

*D2 collected $540,284 with an authorized 10 percent surcharge in 2015. The adjustment represents the difference between the collected amount and the authorized amount of $325,830 authorized in the 2015 final rule.

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported expenses for 2014	District Three		Total
	Undesignated	Designated	
	Lakes Huron, Michigan and Superior	St. Mary's River	
Operating Expenses:			
Other Pilotage Costs:			
Pilot subsistence/travel	$424,935	$141,645	$566,580
Applicant pilot subsistence/travel	24,608	8,203	32,811
License insurance	14,304	4,768	19,072
Payroll taxes	110,567	36,856	147,423
Applicant pilot payroll taxes	9,082	3,027	12,109
Other	12,268	4,090	16,358
Total other pilotage costs	595,764	198,589	794,353
Pilot Boat and Dispatch Costs:			
Pilot boat costs	593,360	197,787	791,147
Dispatch costs	133,787	44,596	178,383
Payroll taxes	31,432	10,477	41,909
Total pilot and dispatch costs	758,579	252,860	1,011,439
Administrative Expenses:			
Legal—general counsel	15,386	5,129	20,515
Legal—shared counsel (K&L Gates)	15,900	5,300	21,200
Legal—Coast Guard litigation	23,422	7,807	31,229

TABLE 3—RECOGNIZED EXPENSES FOR DISTRICT THREE—Continued

Reported expenses for 2014	District Three		Total
	Undesignated	Designated	
	Lakes Huron, Michigan and Superior	St. Mary's River	
Office rent	7,425	2,475	9,900
Insurance	11,050	3,683	14,733
Employee benefits	113,890	37,964	151,854
Other taxes	129	43	172
Depreciation/auto leasing/other	28,802	9,601	38,403
Interest	2,858	953	3,811
APA Dues	20,235	6,745	26,980
Dues and subscriptions	3,975	1,325	5,300
Utilities	33,083	11,028	44,111
Salaries	95,577	31,859	127,436
Accounting/Professional fees	27,492	9,164	36,656
Pilot Training	0	0	0
Other	9,318	3,106	12,424
Total Administrative Expenses	408,542	136,182	544,727
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	1,762,885	587,631	2,350,516
Proposed Adjustments (Independent CPA):			
Pilot subsistence/Travel	−15,595	−5,198	−20,793
Payroll taxes	5,949	1,983	7,932
Pilot boat costs	−62,748	−20,916	−83,664
Legal—shared counsel (K&L Gates)	−1,590	−530	−2,120
Dues and subscriptions	−3,975	−1,325	−5,300
Other expenses	−375	−125	−500
Total CPA Adjustments	−78,334	−26,111	−104,445
Proposed Adjustments (Director):			
APA Dues	−1,012	−1,012	−2,024
Surcharge Adjustment*	−216,734	−72,245	−288,979
Legal—shared counsel (K&L Gates)	−14,310	−4,770	−19,080
Legal—Coast Guard litigation	−23,422	−7,807	−31,229
Total Director's Adjustments	−255,478	−85,834	−341,312
Total Operating Expenses (OpEx + Adjustments)	1,429,073	475,687	1,904,760

*D3 collected $615,929 with an authorized 10 percent surcharge in 2015. The adjustment represents the difference between the collected amount and the authorized amount of $326,950 authorized in the 2015 final rule.

2. Projection of Operating Expenses

Step 2 in our ratemaking methodology requires that the Coast Guard project next year's operating expenses, and adjust for inflation or deflation (§ 404.102). In the NPRM, we adjusted for inflation and projected expenses for 2017 using the Bureau of Labor Statistics' data from the Consumer Price Index for the Midwest Region of the United States [35] and reports from the Federal Reserve.[36] We did not receive any comments on this step and thus are adjusting operating expenses for inflation as described in § 404.102. We do note that, based on updated information from the Bureau of Labor Statistics, the 2016 inflation modification has been adjusted to 0.8%.

TABLE 4—CALCULATION OF PROJECTED EXPENSES

District One	Area 2 (Undesignated)	Area 1 (Designated)	Total
Total Operating Expenses (Step 1)	$633,161	$504,240	$1,137,401
2015 Inflation Modification (@ −0.5%)	−3,166	−2,521	−5,687
2016 Inflation Modification (@0.8%)	5,040	4,014	9,054
2017 Inflation Modification (@2.1%)	13,336	10,620	23,956
Adjusted 2016 Operating Expenses	648,371	516,353	1,164,724

[35] Available at *https://www.bls.gov/regions/midwest/data/consumerpriceindexhistorical_midwest_table.pdf.*

[36] Available at *https://www.federalreserve.gov/monetarypolicy/fomcprojtabl20160316.htm.*

District Two	Area 4 (Undesignated)	Area 5 (Designated)	Total
Total Operating Expenses (Step 1)	796,874	1,195,310	1,992,183
2015 Inflation Modification (@ −0.5%)	−3,984	−5,977	−9,961
2016 Inflation Modification (@0.8%)	6,343	9,515	15,858
2017 Inflation Modification (@2.1%)	16,784	25,176	41,960
Adjusted 2016 Operating Expenses	816,016	1,224,024	2,040,040
District Three	**Areas 6 and 8 (Undesignated)**	**Area 7 (Designated)**	**Total**
Total Operating Expenses (Step 1)	1,429,073	475,687	1,904,760
2015 Inflation Modification (@ −0.5%)	−7,145	−2,378	−9,523
2016 Inflation Modification (@0.8%)	11,375	3,786	15,162
2017 Inflation Modification (@2.1%)	30,099	10,019	40,118
Adjusted 2016 Operating Expenses	1,463,402	487,114	1,950,516

3. Calculation of Number of Pilots

Step 3 in our ratemaking methodology requires that the Coast Guard determine the number of pilots needed to complete all assignments (§ 404.103). In the NPRM, we proposed to modify our pilotage demand calculation to focus on the pilot work cycle, including elements such as travel, rest, pilot boat time, and other items in addition to the time spent on the bridge of a ship. Based on the comments received, we have determined that transitioning to this model, in which all traffic is treated equally for the purpose of determining the number of pilots needed, would result in traffic delays, overwork of pilots, and possible compromises to safety on the Great Lakes. For these reasons, we are not finalizing the proposed changes to § 404.103.

It is important to note that Step 3 produces two different sets of numbers associated with the respective sections of § 404.103. The first number, described in paragraphs (a) through (c), is used to establish the number of pilots the Coast Guard believes are needed to provide safe and efficient pilotage service in each area. This number provides guidance to pilot associations and the Director of Great Lakes Pilotage in making determinations about hiring decisions and the authorization of new pilots. The second number, described in paragraph (d), is based on the number of persons applying for pilot positions under 46 CFR 401. For purposes of setting Great Lakes pilotage rates in § 401.405, only the number derived from the 404.103(d) analysis is used in the ratemaking calculations.

Most commenters provided comments on the model used to determine the number of pilots needed. In the NPRM, the Coast Guard proposed replacing the existing staffing model, which we call the 2016 final rule staffing model, with a model that analyzed shipping traffic throughout the entire shipping season, and which we are calling the 2017 NPRM staffing model.[37] We stated that we were proposing to modify the pilotage demand calculation to incorporate the ''number of assignments we reasonably expect pilots to be able to complete during the 9-month shipping season instead of during peak pilotage demand.'' (*See* 81 FR 72014–5). While we recognized that during the opening and closing of the season, there are significant spikes in traffic that necessitate far more pilotage services, the Coast Guard believed that this seasonal peak would be adequately covered by the fact that pilots would work an extra 10 days (30 percent) per month during those months to cover the increased traffic.

The functional result of the proposed change to the staffing model was to reduce the total number of pilots needed to service the Great Lakes system by 5, from a total of 54 under the previous staffing model to a total of 49 under the proposed new staffing model. We received a large number of comments, especially from pilots, regarding how this change in modeling could affect their workload, lifestyle, stress levels, and overall retention rates, as discussed below.

The 2017 NPRM staffing model had a number of substeps and we received comment on nearly all of these substeps. The substeps and associated comments are discussed below.

Substep 1: Calculate Pilot Cycle

The first step of the process is to determine how long it takes for a pilot to undertake a full piloting cycle, that is, to board a ship, provide pilotage services, disembark, rest, travel back to a port location, and complete any administrative tasks associated with providing pilotage service. We used the ''Average-Through Transit Time'' between change points[38] for an area or assignment segment that is impacted by a mandatory change point, and then added additional time for travel, delay, administrative needs, and mandatory rest, to come up with the total amount of time for a ''Pilot Cycle.''

One commenter[39] suggested that the Coast Guard had made an error in its calculation of the number of pilots needed as a result of the addition of the Iroquois Lock. As noted, in the NPRM, the Coast Guard proposed to add a mandatory change point to District One, Area 1, at the Iroquois Lock. We proposed this additional change point to enhance safety on long segments, noting that the transit time between Snell Lock and Cape Vincent takes about 11 hours under ideal circumstances, and that we wanted to limit a U.S.-registered pilot's assignment time to 8 hours in designated waters to mitigate fatigue.[40] As a result of adding this change point, we modified how we calculated the number of pilots for the Designated Waters of District One (St. Lawrence River).

The commenter noted that while the Coast Guard had increased the number of pilot assignments to account for the mandatory change point at Iroquois Lock, it had not adjusted the Average-Through Transit Time to account for the shorter trips due to the change point. The commenter asserted that instead of using a figure of 10.8 hours, the Coast Guard should replace that figure with a transit time of 6 hours. This change

[37] We note that commenters often refer to these models as the ''peak'' and ''average'' staffing models, although we feel such nomenclature is imprecise, as both models are designed to accommodate traffic at higher-than-average demand periods.

[38] The Average-Through Transit Time is the number of hours it takes for a vessel to fully transit through an area.

[39] Docket #USCG–2016–0268–0033, p. 14.

[40] 81 FR 72016 (December 19, 2016).

would have the effect of lowering the Pilot Cycle to 20.0 hours (from the current 25.2) and the number of additional pilots needed from 3.4 to 2.7. The commenter recommended this new figure be incorporated into the Coast Guard's calculations.

We believe that this comment is justified, and that under conditions where we are calculating transit through times for a single pilot, this would be a reasonable change. However, we are not adopting the 2017 NPRM staffing model, but we are retaining the 2016 final rule staffing model. In such a model, we calculate transit through the Iroquois Lock using double pilotage, where the fatigue issue is mitigated by a second pilot. For that reason, under double pilotage, pilots do not have to change at the Iroquois Lock, and we can continue to use the full 10.8 hour average through transit time.

One commenter [41] stated the NPRM inconsistently relied on bridge hours and cycle time in determining the number of pilots needed in each District, and that instead of using the Average-Through Transit Time as a basis for the pilot cycle, we should use an average trip time. The commenter gave an example for District Two Area 4. The NPRM uses cycle time analysis to determine that District Two, Area 4 needs seven pilots to handle the historic average assignments in this area. These seven pilots should complete an average of 73 assignments with an Average-Through Transit Time of 17 hours each. The commenter stated the total time on task for this District would be 8,687 hours. However, this figure would differ from the Coast Guard's calculation of average traffic, used to calculate revenue, which found the average time on task as 5,174 hours per year using the average number of bridge hours from 2007 to 2015. The commenter stated that the Coast Guard's ''inconsistent reliance on bridge hours raises the hourly rate in the undesignated waters of District Two from $319 to $537.'' [42] The commenter stated that the Coast Guard cannot rely on cycle time to increase the projected number of pilots needed and then use the bridge hours to calculate the hourly rate.

We acknowledge that we use different bridge hour inputs when calculating the Average-Through Transit Time and the calculation for the expected traffic. For staffing purposes, we are assuming that each assignment will go between the mandatory change points in a given pilotage district to ensure that we have enough pilots to handle traffic. This is a situation where efficiency and safety are in conflict. We believe the safety concerns associated with having too few pilots outweigh the financial burden on the rate payers. The methodology established in the 1990s used a similar bridge hour standard in multiple steps throughout the ratemaking process. This caused problems with recruitment and retention, revenue shortfalls, lack of training, and a resistance to infrastructure investment and maintenance. We intentionally decided to only include a historic bridge hour input in determining the hourly rate for services and use the number of assignments (assuming that each assignment would be average maximum time between two change points) for staffing.

However, we realize that this system of basing the pilot cycle on the transit through time, as opposed to the average trip time, is better suited to the 2016 final rule staffing model, rather than the 2017 NPRM staffing model. As we stated in the 2016 final rule, it makes sense to use the full transit through time for conditions at the opening and close of the season, as a high percentage of trips during that time are through transit trips to ensure the pilot associations are sufficiently staffed to provide adequately rested pilots during the time of the season when the conditions are most challenging. Conversely, when calculating the total revenues we expect the associations to collect, we use the historic traffic data, which provides a more accurate accounting of revenue. Unlike the issue of staffing of vessels, it does not make a difference when revenue is collected during the shipping season.

As the commenter points out, the transition from 2016 final rule staffing model to the 2017 NPRM staffing model, without reevaluating the full ratemaking methodology, can cause these types of logical discrepancies. This is one reason that we are not adopting the 2017 NPRM staffing model in the final rule, and are instead relying on the 2016 final rule staffing model to determine an adequate capacity.

Substep 2: Calculate Maximum Number of Assignments per Pilot

In the next part of the 2017 NPRM staffing model, we divided the Seasonal Availability (the total amount of time which we expect a pilot to be available, which is 4,800 hours, or 200 days [43]) by the Pilot Cycle to calculate a theoretical maximum number of assignments per pilot. We realize that this number is highly theoretical, and assumes no shipping delays, inclement weather conditions, traffic, administrative issues, and that a new ship is readily available each time a pilot arrives at port. As seen below, the number of actual assignments a pilot can perform during the shipping season is much lower.

Substep 3: Calculate Estimated Number of Assignments per Pilot

In the third step, we multiplied the theoretical maximum number of assignments per pilot by an ''efficiency factor'' of 50 percent, which is based upon the Coast Guard's 2013 ''Bridge Hour and Methodology Study Final Report,'' [44] to arrive at a total number of projected assignments per pilot.

We received comments criticizing the efficiency factors from a variety of sources. One commenter stated that it was ''nothing more than a placeholder number from a study rejected by both pilots and industry at GLPAC.'' [45] The commenter requested that the Coast Guard abandon its existing methodology for determining the number of pilots needed in an area. In its place, the commenter suggested the Coast Guard determine the number of pilots needed by either directly using the recent average number of assignments per pilot, or by increasing the efficiency ratio in each District to bring the anticipated number of assignments up to average levels. The commenter did not specify what the ''recent average number of assignments per pilot'' was, or what change to the efficiency ratio would be needed to achieve this. However, the commenter suggested that the Coast Guard could gather information that would allow us to more directly determine average pilot assignments by using invoices and source forms provided by pilots.[46]

While we understand the concept of this proposal, we do not agree that the historic average of assignments is a useful tool for the following reasons. The mid-1990s methodology excluded many of the pilot assignment cycle time inputs to determine a seasonal workload. Additionally, the goal of providing 10 days of recuperative rest for 7 months of the season was introduced in the 2016 Annual Rulemaking, in response to National Transportation Safety Board recommendations, letters from Congress asking us to address recruitment and

[41] Docket #USCG–2016–0268–0033, p. 17.

[42] Docket #USCG–2016–0268–0033, p. 17.

[43] This number is based on a 270-day shipping season, with an allowed 10 days off each non-peak month.

[44] Available in the docket, see Docket #USCG–2016–0268–0059.

[45] Docket #USCG–2016–0268–0037, p. 3.

[46] Docket #USCG–2016–0268–0033, p. 19.

retention, and a recommendation from the July 2014 GLPAC meeting. For these reasons, we do not expect the historical average of assignments per pilot to be an accurate reflection of the estimated future counts based on the current staffing model. We may consider using historical data in a future rulemaking if we compile sufficient data to make an accurate comparison.

We believe the efficiency factor of 0.5 is supported by the Bridge Hour and Methodology Study Final Report. In response to concerns about the methodology used to calculate shipping rates, GLPAC unanimously recommended that an independent party conduct a comprehensive review of the methodology established in the mid-1990s to calculate pilotage rates. GLPAC reviewed the scope of the study, entitled ''Bridge Hour and Methodology Study Final Report,'' expanded the study's scope, and unanimously approved the scope of the study. This included one-on-one meetings with all of the stakeholders, two focus groups, and additional GLPAC meetings. Based on the study's findings, the Coast Guard developed the efficiency factor. The study recommended that we consider an efficiency factor between 0.4 and 0.6 for staffing. However, we provided additional guidance with regard to mandatory change points and required rest between assignments in 2014, incorporated changes based upon recommendations from the National Transportation Safety Board in 2015, and implemented significant changes to the methodology in 2016 Annual Rulemaking.

While the various stakeholders rejected the final recommendations of the study for different reasons, none of the criticisms of the study accused its final recommendations of being a ''placeholder.'' One group did not think the study went far enough to recommend changes that were outside of the scope of the study. Another group did not think the study went far enough to guarantee time off for the pilots or establish an acceptable compensation standard. While we are not using the efficiency factor in this final rule, we continue to believe that a 0.5 efficiency factor would be reasonable if it were being used in a staffing model.

One commenter [47] stated that the Coast Guard had used incorrect assumptions regarding efficiency, cycle time, recuperative rest, and transition planning in calculating the total average time it takes for a pilot to complete an assignment. Using as an example the Coast Guard's calculations for District Three Area 2 (which in the NPRM is listed as ''Area 7''), in which the Coast Guard calculated that the number of projected assignments per pilot was 112, the commenter said that ''assuming that these pilots can only take one assignment per day (based on the estimated 21.5 hour shipping time), each pilot in [Area 7] will only work 41 percent of a 270-day shipping season. This figure is unrealistically low.'' [48]

We disagree with the assertions that we used incorrect assumptions that resulted in an unrealistically low value. Even though the shipping season is 270 days, we only expect the pilots to be on the tour-de-role for 200 days a season (noting that they receive 10 days off per month for seven of the nine months of the season) so the correct comparison would be the number of days worked to the number of days available for assignment which is 56 percent (112 assignments/200 days). This does not seem unrealistically low, as the total cycle time is often over one day. Furthermore, we know that the demand for pilot services is not spread uniformly across the entire season, and there will be times when a pilot is idle for substantial periods of time between assignments. It is quite rare that a pilot returns after an assignment and is immediately able to start a new assignment, and that usually only occurs when there is a backlog of ships awaiting pilots. Simply put, all of this represents inherent inefficiencies in the system and, for these reasons, an efficiency factor of 50 percent is appropriate.

Substep 4: Calculate Total Number of Pilots Needed per Area

Having determined the number of assignments that a pilot can reasonably be expected to handle in a shipping season, we move to calculate how many pilots are needed to handle the amount of traffic. To do this, we divided the measured number of actual assignments (averaged over a 10-year period) by the estimated number of assignments per pilot to estimate the total number of pilots needed for a segment within an area. This produces a figure of how many pilots are needed to handle the total amount of traffic in an area.

Because of the detailed manner in which calculations of pilots are carried out, the raw calculations often end up suggesting a fractional number of pilots. In the NPRM, we stated that, ''when the calculation [of total pilots needed] results in a fraction of a pilot, we round pilot numbers up to the nearest whole pilot. We do this to avoid shortening our demand calculation and also to compensate for the role of the district presidents as both working pilots and representatives of their associations. We believe the rounding is justified to meet the needs of the staffing model and also to ensure the presidents of the pilot associations are able to effectively engage in meetings and communications with stakeholders throughout the Great Lakes region and the Coast Guard.'' (81 FR 72016–7).

Several commenters argued that our rounding convention, in which we rounded up to the nearest whole number rather than rounding up or down, unnecessarily increased the number of pilots. One commenter argued that the Coast Guard's stated rationale in the 2017 NPRM for rounding up in all situations is flawed. The commenter suggested that the Coast Guard should not build in time for meetings and outreach activities into the pilot numbers, and stated that if the pilot associations believe those are essential elements of officer functions, they should instead adjust their distribution practices to encourage those functions.[49] The commenter also stated that other aspects of the staffing model already ensure that association officers have time for other duties, citing the efficiency adjustment of 50 percent.

We disagree that the efficiency factor is the proper forum in which to address a pilot's ancillary duties, such as acting as an association president. The ability of a pilot president to engage in the running of the association, respond to Coast Guard inquiries, and attend necessary meetings further takes away from his ability to provide pilotage service. The efficiency factor adjustment is designed to determine how efficiently a pilot can undertake piloting activities, and does not address these other required activities.

The commenter also argued that the method by which the Coast Guard rounded up pilot numbers in the 2017 NPRM deviates from the 2016 NPRM.[50] In the 2017 NPRM, we proposed to round up ''when the calculations resulted in a fractional pilot.'' [51] We agree that the 2017 NPRM staffing model is different from that used in 2016. In 2016, we established the standard to round the number of pilots up or down, ''as seems most reasonable,'' using a demand number that generally allocated more pilots than needed at times of lesser traffic. This is because, under the 2016 Final Rule

[47] Docket #USCG–2016–0268–0033, p. 16.

[48] Docket #USCG–2016–0268–0033, p. 16.

[49] Docket #USCG–2016–0268–0033, p. 15, footnote 7.

[50] Docket #USCG–2016–0268–0033, p. 14.

[51] 81 FR at 72015–6.

Staffing Model, there was less of a safety concern of rounding down by a fractional pilot. We proposed a different staffing model in the 2017 NPRM, using the pilot assignment cycle to determine the actual number of pilots needed for the duration of the shipping season. Under this model, rounding down would be more likely to result in an inadequate number of properly-rested pilots available, and could result in safety concerns and traffic delays. However, as stated above, we believe that in maintaining the 2016 final rule staffing model, this issue with the rounding can be resolved.

The Coast Guard also received a comment that it had applied unnecessary rounding to the Iroquois Lock calculation, resulting in an overestimate of the number of pilots needed. The commenter wrote, ''According to GPLO calculations, without rounding, District One would need a total of 9.11 pilots to handle anticipated demand in District One, Area 1. With rounding, GLPO proposes that 11 pilots are needed.'' [52]

We believe the coalition's calculations are incorrect. In the NPRM, we calculated that District One, Area 1, would need a total of 9.11 pilots (3.4 + 5.71), for the increased number of assignments due to the mandatory change point at Iroquois Lock. However, this was rounded up to 10 not 11. This is shown in Table 9 of the NPRM, where we stated that the total number of pilots required for the designated waters of District One, Area 1, is 10.[53]

In evaluating this comment, however, we did discover one issue with our rounding convention. While the text of paragraph 404.103(c) reads, in part, ''[t]he number of pilots needed in each district is calculated by totaling the area results by district and rounding them to the nearest whole integer,'' the Coast Guard made an error in its rounding calculations by rounding the number of pilots in each area, rather than in each district. There are circumstances where this could have resulted in an increase of an extra pilot (if, for example, two areas required 0.7 pilots). We have corrected this mistake in the final rule and are rounding by district.

Reasons To Abandon 2017 NPRM Staffing Model

Several commenters discussed the proposed change from 2016 final rule staffing model to the 2017 NPRM staffing model in general terms, without referring to specific portions of the calculations.

One commenter, a Great Lakes pilot, argued that the number of pilots proposed in the 2017 calculations would fall short of what is needed to provide safe, efficient, and reliable pilotage.[54] The commenter stated that reviewing bridge hours worked in District Three over the course of the 2016 shipping season would show that pilots there had worked extra hours to keep ships moving. Furthermore, the commenter suggested that cruise ships, which are run on a much tighter schedule than cargo ships, might abandon the area if a lack of pilots caused persistent delays. However, the commenter did not provide specific recommendations on how we should modify the staffing model's methodology or suggest different inputs.

We received comments from the Western Great Lakes Pilot Association President which suggested that using an average staffing model, as proposed in the 2017 NPRM, would result in unacceptable delays for cruise ships. We recognize that the various types of vessels that employ U.S. and Canadian registered pilots have different tolerances for delays due to the lack of pilot availability. One method to address the varying tolerance for delays is through adjusting the regulations that deal with dispatching. The current system is to strictly assign pilots on a first-come, first-serve basis. We plan to discuss this issue during the next GLPAC meeting to investigate whether that standard should be modified, and the potential implications such modifications would have on the System and hourly pilotage rates.

For many of the reasons the commenters described above, we realize that there are flaws with the 2017 NPRM staffing model. Based upon the comments received, particularly those that highlighted the variations in traffic throughout the season and the inconsistencies in the use of average trips vs. through time, we have concluded that our data does not support using the 2017 NPRM staffing model. For those reasons, we have decided to not to adopt the 2017 NPRM staffing model, and continue to use the 2016 final rule staffing model.

We note, however, that in the NPRM, we proposed to adjust the wording of 46 CFR 404.104 by replacing the word ''peak'' with the word ''seasonal.'' While we are not adopting the proposed new staffing model, we believe that ''seasonal'' is a more appropriate term to use, as instances of high demand often occur at various points in the seasons, and so are maintaining that textual change in the final rule.

We agree with both shippers and pilots that the proposed 2017 NPRM staffing model may not achieve the required goals of promoting safe and efficient pilotage, and that averaging traffic through an entire season may not adequately account for mid-season variations in demand. In this final rule, we maintain the staffing model we adopted in the 2016 final rule. Even though we have used the label ''peak demand'' for the 2016 staffing model, we believe some have misinterpreted this label. This model uses the pilot assignment cycle and average late-seasonal traffic demand over the past 10 shipping seasons to establish the number of pilots necessary to move that traffic. We did not establish staffing levels to eliminate delays throughout the season by reviewing 10 years of historic traffic and ensuring that sufficient pilots would be on the tour-de-role throughout the season to eliminate delays. We believe our approach provides sufficient pilots to deal with the opening of the Seaway and the late season rush, in addition to other high-traffic periods, in a safe and reliable manner while also accounting for mid-season demand variations and providing the pilots with sufficient opportunity to achieve 10 days of recuperative rest during 7 months of the season. We are willing to evaluate potential adjustments to this model in the future if we receive specific delay tolerances from those stakeholders concerned about this issue. We discussed staffing during the previous GLPAC meeting and plan to discuss staffing and delay tolerance during future meetings.

Calculation of Pilotage Need Under the 2016 Final Rule Staffing Model

Using the 2016 final rule model, we have recalculated the number of pilots needed for each district. First, we note that use of this model considers the extensive use of double pilotage during the opening and closing of the shipping season. This is because, during the opening and closing of the season, the aids to navigation may not be in place, the weather can be volatile and extreme, sea smoke and fog appear with little notice, and ice conditions routinely present unique challenges to navigation. It is also during these periods that the pilots are working diligently to ensure all vessels exit the system before the locks close. For these reasons, we tend to authorize double pilotage during the opening and closing in designated waters for District One and District Two. District Three tends to engage in day-

[52] Docket #USCG–2016–0268–0033, page 15.

[53] 81 FR at 72017 (December 19, 2016).

[54] Docket #USCG–2016–0268–0021, p. 1.

time only navigation on the St. Marys River in lieu of utilizing two pilots. Double pilot usage in District Three occurs about 30 percent of the time during the opening and closing of the System. Our staffing model is designed to move the average amount of ships (calculated using a 10-year average model) into and out of the system during these times.

Additionally, we note that the use of double pilotage avoids concern about how the proposed rule's modeling system dealt with the inclusion of the new mandatory change point at the Iroquois Lock. Several commenters had noted that while the Coast Guard had mandated the change, it had not updated its models to account for a shorter average transit through time the change would produce. However, during periods of double pilotage, because there are two pilots onboard that can share the duty, there is no need to do a pilot change at the Iroquois Lock.

Substep 1: Determine the Pilot Cycle Time

Similar to the 2017 NPRM staffing model, we start the 2016 final rule staffing model by calculating the pilot cycle time, as shown the tables below:

TABLE 5a—CALCULATION OF PILOT ASSIGNMENT CYCLE, DISTRICT ONE

District One	Area 1	Area 2
Time on Bridge or Available (hrs)	10.8	11
Travel and Pilot Boat Transit (hrs)	3.2	4.6
Delay (hrs)	.7	.9
Admin (hrs)	.5	.5
Mandatory Rest	10	10
Total Pilot Assignment Cycle (hrs)	25.2	27.0

District Two is unique in the fact that the mandatory change points do not align with the border of designated and undesignated waters. The mandatory change point is located at Detroit, but the boundary for designated and undesignated waters occurs at the Southeast Shoal of Lake Erie. We based the average through transit for each of these segments, as follows:

TABLE 5b—CALCULATION OF PILOT ASSIGNMENT CYCLE, DISTRICT TWO

District Two	Between Area 4 and Detroit	Between Detroit and Port Huron
Time on Bridge or Available (hrs)	17	6.5
Travel and Pilot Boat Transit (hrs)	4.6	3.2
Delay (hrs)	.7	.4
Admin (hrs)	.5	.5
Mandatory Rest	10	10
Total Pilot Assignment Cycle (hrs)	32.8	20.6

District Three is unique in that steel-importing vessels transit to Chicago/Burns Harbor while grain-exporting vessels depart from Duluth and Thunder Bay. During the opening and closing of the shipping season, the System experiences numerous vessels that make an inbound or outbound transit in ballast.

TABLE 5c—CALCULATION OF PILOT ASSIGNMENT CYCLE, DISTRICT THREE

District Three	Area 6	Area 7	Area 8
Time on Bridge or Available (hrs)	22.5	7.1	21.6
Travel and Pilot Boat Transit (hrs)	2.4	3.6	3.7
Delay (hrs)	1	0.3	3.3
Admin (hrs)	0.5	0.5	0.5
Mandatory Rest	10	10	10
Total Pilot Assignment Cycle (hrs)	36.4	21.5	39.1

Substep 2: Determination of Average Late Season Demand

We then determine the average late-season traffic demand over the base period, as shown in table 6. This number is derived by dividing the number of assignments by the number of days in the corresponding pilot cycle. Numbers for designated areas are doubled due to the need for double pilotage during late peak seasonal period, as described above. Table 6 also shows the number of pilots that would be authorized using the traffic information from 2007–2016.

TABLE 6—10-YEAR AVERAGE OF TRAFFIC DEMAND AND PILOT REQUIREMENTS AT THE CLOSING OF THE SEASON, 2007–2016

District One	Area 1 (designated)	Area 2 (undesignated)
Average late-season assignments per day	5	6
Average Pilot Cycle Time (hours)	25.2	27.0
Total Hours Needed (Assignments * Cycle Time)	126	162
Total Hours Needed for double pilotage transit (designated only)	252	.....
Number of pilots needed to meet the average seasonal demand (total hours/24)	10.5	6.8
Pilots Needed for total district	(252 + 162)/24 = 17.25 = 17 (rounded)	

District Two	Area 4 to Detroit (designated and undesignated)	Area 5 Between Detroit and Port Huron
Average late-season assignments per day	5	5
Average Pilot Cycle Time (hours)	32.8	20.6
Total Hours Needed (Assignments * Cycle Time)	164	103
Total Hours Needed for double pilotage transit (designated only)	N/A	206
Number of pilots needed to meet the average seasonal demand (total hours/24)	6.8	8.6
Pilots Needed for total district	(164 + 206)/24 = 15.41 = 15 (rounded)	

District Three	Area 6 (undesignated)	Area 7 (designated)	Area 8 (undesignated)
Average late-season assignments per day	5	5	5
Average Pilot Cycle Time (hours)	36.4	21.5	39.1
Total Hours Needed (Assignments * Cycle Time)	182	107.5	195.5
Total Hours Needed for double pilotage transit (designated only)	N/A	[55] 139.75	N/A
Number of pilots needed to meet the average seasonal demand (total hours/24)	7.6	5.8	8.1
Pilots Needed	(182 + 139.75 + 195.5)/24 = 21.55 = 22 (rounded)		

Based on the above analysis, we have determined that there is a need for a total of 54 pilots. The breakdown, as shown in the above table, is 17 pilots in District One, 15 pilots in District Two, and 22 pilots in District Three. The Coast Guard will keep these numbers in mind in future regulatory actions.

Calculation of Projected Pilot Numbers

As stated above, paragraph 404.103(d) produces a separate number of pilots, which is used for the Great Lakes pilotage ratemaking procedure. That section requires the Director of Great Lakes Pilotage to determine the number of pilots expected to be fully working and compensated based on the number of persons applying become U.S. Great Lakes registered pilots, and on information provided by the district's pilotage association. In the NPRM, the Coast Guard projected that there would be 17 pilots in District One, 13 pilots in District Two, and 15 pilots in District Three, for a total of 45 pilots.

In the NPRM, after determining the number of pilots needed in each district in Step 3, the Coast Guard proposed adding additional applicant pilots in District Two and District Three. The Coast Guard believes these applicant pilots are necessary to prepare for future retirements, given the long training periods associated with new pilots. Currently, 4 of the pilots in District Two are over 62 years of age, and 6 of the pilots in District Three are over 61 years of age. These pilots represent nearly 30 percent of the pilot strength in each of these districts. Waiting until these pilots retire to replace them will result in significant delays and may denigrate safety, because the pilot association will be short-staffed. These pilots are needed in addition to the existing shortage of pilots (District Two is one pilot short of the needed number, while District Three is seven pilots short). Therefore, the Coast Guard proposed authorizing a surcharge in 2017 to fund these additional applicant pilots.

We received several comments on this issue. One commenter [56] stated that the ''NPRM arbitrarily introduces pilot age as a reason to justify the addition of more pilots than required by its calculations.'' The commenter stated that the Coast Guard proposes adding 1 additional pilot in District Two and 4 additional pilots in District Three, but the Coast Guard does not impose age limitations on pilots. The commenter stated the Coast Guard also does not specify the retirement commitments of the current pilots within the next 2 years. The commenter recommended that instead of speculating about the age impacts on pilot rosters, the Coast Guard should train additional pilots based on the retirement transition plans.

We disagree. The regulations allow a registered pilot to work until the age of 70. Just because a pilot can keep his full registration until age 70, doesn't mean that all of the pilots will work until that age. In the past several years, a number of pilots have retired prior to age 70. While we are in close contact with the US pilot associations to plan for future retirements, we do not feel it is prudent to assume that all of the current pilots will work until age 70.

[55] District Three prefers day-time navigation only during the opening and closing of the System and these pilots use double pilotage approximately 30 percent of the time at the opening and closing of the season.

[56] Docket #USCG–2016–0268–0033, p. 18.

Once commenter[57] stated that the ''Lakes Pilots Association agrees with the number of pilots in the proposed rates of 13 working pilots and 2 training pilots.'' The commenter stated the Lakes Pilot Association will require 15 pilots to service future traffic and provide adequate rest in the future. The Lakes Pilot Association noted in 2018, that it will look for 14 full time pilots and 1 trainee and will be at 15 full time pilots in 2019. We agree with the assessment that there is a need for 13 working pilots and 2 training pilots for the 2017 shipping season. We cannot comment on 2018 and 2019 at this time.

Based on our analysis of the pilotage numbers and the comments received, we have not modified the number of working pilots for 2017. Both the 2017 NPRM staffing model and the 2016 final rule staffing model produce more pilots than the 3 U.S. pilot associations have fully trained. Therefore, when we established 45 working pilots in the NPRM, we knew that the system needed more time to acquire and train the additional pilots. We will continue to monitor and work with the pilot associations to ensure that the associations continue to make progress toward our staffing goals. The final numbers for the 2017 Step 3 calculations are 17 pilots for District One, 13 pilots for District Two, and 15 pilots for District Three, for a total of 45 pilots. Pursuant to 46 CFR 404.104, these are the numbers we will be using in our rate calculations.

4. Calculation of Target Compensation

Step 4 in our ratemaking methodology requires that the Coast Guard determine the target pilot compensation (§ 404.104). In the 2016 final rule, the Coast Guard used the Canadian pilot compensation as the benchmark for the U.S. pilot compensation, and then made an adjustment for foreign exchange differences and inflation. The Coast Guard then increased the U.S. target pilot compensation by 10 percent over the projected GLPA figure to account for the differences in the status of U.S. and Canadian pilots and the different compensation systems in place in the two countries. In the 2017 NPRM, the Coast Guard proposed keeping the target pilot compensation at the 2016 levels.

In this section, we discuss comments relating to our calculations to get to the target compensation as discussed in the 2016 final rule and the 2017 NPRM, which uses the Canadian salary plus 10 percent as the target. In the section regarding setting a compensation benchmark above, we separately discussed the issue of using different compensation benchmarks, such as the compensation packages for pilots in other U.S. Associations or salaries of first mates or other crewmembers. For the reasons described in that section, we continue to believe that the benchmark established in the 2016 final rule, based on Canadian pilot salaries plus a 10 percent differential to calculate the value of certain benefits, is an appropriate level of compensation. In this section, we discuss the specific comments related to the calculation of the compensation benchmark.

Several commenters suggested that the use of Canadian pilot salaries was an inappropriate yardstick by which to base U.S. salaries. One commenter argued that it was inappropriate because U.S. and Canadian pilot associations cannot recruit workers from the same pool of individuals.[58] Another commenter suggested that the older way in which the Coast Guard determined compensation, by basing its estimate on the wages paid to U.S. Masters and Mates, was more appropriate, asserting that the functions of these personnel are essentially the same as U.S. pilots, and that using this system avoids the complications of comparing compensation across national boundaries.[59]

Several pilot associations argued that the Coast Guard should base Great Lakes compensation figures on the salaries earned by other U.S. pilot associations. Several commenters provided figures, noting that in other areas, U.S. pilots earned upwards of $450,000 per year. One commenter[60] provided figures showing the projected compensation for pilots in various U.S. pilot associations, which ranged from a low of $399,708 per year to a high of $493,692. Other commenters echoed the argument that the Great Lakes pilots are among the lowest-paid U.S. pilots.

In some regions governed by local pilotage associations, compensation figures appear to be much higher than those proposed by the Coast Guard. It is unclear why some U.S. pilot associations receive compensation levels much higher than that of Canadian pilots or U.S. masters and mates, based on the alternative sources of information that we have.[61] As many organizations that set pilotage rates do not make public what methodology they are using to derive pilotage rates, we do not have sufficient information or a basis to raise pilotage rates on the Great Lakes to determine if these levels of compensation are appropriate for Great Lakes pilotage. We note, again, that we are undertaking a compensation study to better determine an appropriate compensation benchmark, and will present the results of such a study in a public forum should it provide a better basis for setting compensation levels.

Even for those commenters who agreed that the comparison between U.S. and Canadian Great Lakes pilots was the most apt, we received comments that our calculations erred in a variety of ways. Many commenters offered statements regarding the calculations of Canadian pilots' average total compensation, arguing that in certain areas, the Coast Guard had overestimated or underestimated the total amount, or made errors in its conversion of the value of Canadian compensation to American currency. In the NPRM, we recognized that the most challenging portion of our target compensation analysis was the conversion of Canadian benefits into equivalent United States benefits, and many commenters argued that we had underestimated total compensation in a variety of ways.

One commenter argued that the Coast Guard underestimated Canadian compensation by averaging the compensation of four contract and three apprentice pilots, along with 49 full-time, regular Canadian pilots, into the compensation total.[62] That commenter stated that the compensation for U.S. full-time, regular pilots should be based on the salaries of Canadian full-time, regular pilots only. By excluding those contract and apprentice pilots, the commenter calculated that the base compensation should have been $291,035, rather than the $268,552 used in the NPRM, meaning that the Coast Guard should increase the total compensation target by over 8 percent.

While we agree with the commenter that contract and apprentice pilots should not have been included in the calculations of pilot salaries, we disagree with the commenter's assertion that they were included in our calculations. The Coast Guard did not base its calculations on the annual report the commenter cited, but received information from the GLPA directly. When the GLPA provided the Coast Guard with the information regarding Canadian compensation, it did not include these contract and apprentice pilots.

[57] Docket #USCG–2016–0268–0035, p. 1.

[58] Docket #USCG–2016–0268–0031, p. 1.

[59] Docket #USCG–2016–0268–0033, p.20.

[60] Docket #USCG–2016–0268–0028, p. 6–7.

[61] These sources include information from the Great Lakes Pilotage Authority as well as information regarding compensation submitted by other U.S. pilotage associations.

[62] Docket #USCG–2016–0268–0028, p. 2–3.

Another commenter[63] argued that U.S. pilots should be paid substantially more than Canadian pilots due to working more days per year. This commenter stated that that the Canadian Great Lakes Pilot Association's work schedule is 178 days per year, and that the U.S. pilot compensation needs to be adjusted to reflect an additional 12.4 percent difference in time on duty. We disagree that target pilot compensation needs to be adjusted by 12.4 percent. While our staffing model assumes that the pilots will be on the tour-de-role for 200 days of the season, we do not make a 1-to-1 comparison between time spent on duty in the Canadian sector and time spent on the tour-de-role. Our methodology was designed to approximate the annual average compensation for Canadian pilots, not an attempt to match their hourly pay rate.

One issue that arose regarding compensation figures is the conversion from Canadian to U.S. currency. Comments from the Great Lakes Shippers Association requested the Coast Guard to recalculate the baseline compensation figure using updated exchange rate figures. The commenter stated that the Coast Guard's ''decision in the 2017 NPRM to disregard fluctuations in the U.S./Canadian exchange rate is inconsistent with the 2016 NPRM.''[64] The commenter requested that the Coast Guard provide analysis and reasoning for this change from the past practice. The commenter also stated that if the exchange rates are relevant in one direction the exchange rates should be relevant in the other direction, arguing that not including this fluctuation in the exchange rate ''fails to reconcile the emphasis on perceived parity between U.S. and Canadian pilot compensation with the negative impact of increased U.S. dollar strength on Canadian pilots.'' Shipping industry comments requested that exchange rates be used to recalculate compensation on a regular basis. The comment suggested that the Coast Guard should adhere to this methodology if the Coast Guard chooses to use Canadian compensation as the benchmark.

The shipping association comments requested that, given the decline in exchange rates between the U.S. and Canadian dollars, the Coast Guard dramatically lower the target compensation. The commenter stated that ''assuming a 1.329 average exchange rate and 2 percent inflation per year, U.S. pilot compensation in 2017 would be $240,149''.[65] The commenter stated that this compensation figure is 3.4 percent higher than the 2015 projected compensation levels in designated waters of $232,237, which was the last year the Coast Guard used U.S. Mates and Masters as the U.S. target pilot compensation.

We acknowledge that the exchange rate had changed substantially, and that our original translation of Canadian benefits to U.S. dollars is based on the 2014 exchange rate. This rate has fluctuated significantly in recent years, for example, changing from 1.149 CAD:1 USD in 2014 to 1.329 CAD:1 USD in 2015.[66] If the goal of the Coast Guard were to have U.S. pilot salaries mirror, as closely as possible, the value of Canadian pilots' salaries each year, it would make sense to re-baseline the compensation figure using updated exchange rates each year. One downside of this approach, however, would be tremendous volatility in pilot compensation as the currency fluctuated from year to year. As we noted in our discussion of why we proposed a compensation benchmark in the NPRM, large swings in compensation, based on external factors such as currency fluctuations, are something the Coast Guard believes are highly detrimental to retaining talented pilots and maintaining safe and efficient pilotage.

Other commenters wanted the Coast Guard to revisit its calculation of compensation and increase it, citing a number of factors. One commenter[67] argued that the 10 percent factor used to adjust the Canadian pilot compensation to American pilot target compensation is too low. The commenter identified 10 ways that the Canadian pilot positions differ from American pilot positions, and argued that each of these identified differences works to the disadvantage of the American pilots with respect to compensation. The commenter suggested setting U.S. pilot compensation at Canadian compensation plus 25 percent, rather than 10 percent, but then stated that this would still be too low given the differences.

The commenter[68] further stated the difference in healthcare and pension costs alone exceeds the 10 percent factor and supports the need for at least a 25 percent factor.[69] The commenter stated the pension compensation between the American and Canadian pilots is different: The Canadian pilots are government employees who contribute to a defined benefit pension plan that is subsidized by the Canadian government, but the American pilots have no defined government plans and must cover the costs of retirement themselves. The commenter submitted data on the annual pension contributions from a randomly selected group of GLPA pilots. The commenter did note that the typical Canadian pilot contributes an average of $10,000–16,000 annually to a pension plan, while an American pilot might contribute ''multiple times that amount, receiving no contribution from his government, and not being eligible for any similar lifetime government-sponsored defined pension plan.'' The commenter stated the difference an American pilot would need to contribute to a pension alone requires a factor greater than 10 percent to adjust target compensation. They also stated that data from the International Organization of Masters, Mates & Pilots (MM&P) American labor union indicates the pension contribution for a pilot would be $61,992 annually for a plan similar to the Canadian defined benefit pension plan.

The same commenter also stated the healthcare compensation is different between American and Canadian pilots, and further supports a factor higher than 10 percent. The commenter noted a Canadian pilot pays no out-of-pocket expenses for dental or general healthcare coverage, while an American pilot typically pays $25,000 annually for a reasonably comprehensive healthcare plan. The commenter cited that the MM&P Pilot Membership Health plan annual cost is $28,965 and an American pilot association includes $30,000 annually per pilot for healthcare. Further, American pilots must pay for long-term disability insurance while Canadian pilots have no out-of-pocket costs for long-term disability coverage. For these reasons, the commenter requested ''the Coast Guard to revise its factor to at least 25 percent and perhaps more in order to achieve its goal of equivalency''.[70]

Despite the importance of these issues, this information does not relate to an issue that the Coast Guard proposed to address in the 2017 ratemaking process. In 2016, the Coast Guard conducted a substantial re-baselining of the compensation benchmark, and considered these issues closely, arriving at the $326,114 annual compensation figure. In the 2017 ratemaking, it was not our intention to

[63] Docket #USCG–2016–0268–0038, p. 4.

[64] Docket #USCG–2016–0268–0033, p. 20.

[65] Docket #USCG–2016–0268–0033, p. 21.

[66] See *https://www.irs.gov/individuals/international-taxpayers/yearly-average-currency-exchange-rates.*

[67] Docket #USCG–2016–0268–0028, p. 4.

[68] Docket #USCG–2016–0268–0028, p. 4.

[69] Docket #USCG–2016–0268–0028. p. 4.

[70] Docket #USCG–2016–0268–0028, p. 5.

reanalyze all of these issues, and we did not propose a change in the value we established in 2016. Much like recalculating U.S. pilot salaries on the fluctuating U.S.-Canada exchange rate, recalculating these issues on an annual basis could produce an extraordinary amount of volatility in both the shipping rates and the overall compensation levels, which is why we proposed using a 10-year compensation benchmark rather than recalculating the target compensation on an annual basis. As we stated in the NPRM, we do not believe it is in the public interest to introduce such volatility into the market based on these difficult-to-calculate and predict forces. We believe that the system needs target pilot compensation stability in order to achieve and maintain workforce stability, and that this concern strongly supports using a consistent compensation benchmark. For that reason, while we consider all of these factors to be valid concerns, we are not utilizing them in this rulemaking.

We did receive one comment on the compensation figure that did not involve re-examining the benchmark. This commenter suggested that the 2016 figure should be adjusted for inflation so that pilots would continue to receive the same income in real terms. We agree with this commenter. To remain stable in real terms, such a benchmark would need be adjusted for inflation on an annual basis. This will achieve the Coast Guard's goal of maintaining stability in real (as opposed to nominal) compensation. For this reason, we are adjusting the 2017 target compensation by the Midwest Consumer Price Index of 2.1 percent, for a total figure of $332,963 per year. We intend to adjust the compensation figure for inflation annually in future ratemaking actions, the same way that operating expenses are adjusted for inflation.

Based on the analysis, the calculations for step 4 are as follows:

TABLE 7—CALCULATIONS OF TOTAL COMPENSATION

District One	Area 2 (undesignated)	Area 1 (designated)	Total
Target Pilot Compensation	$332,963	$332,963	$332,963
Number of Pilots (step 3)	10	7	17
Total pilot compensation	$3,329,630	$2,330,741	$5,660,371
District Two	**Area 4 (undesignated)**	**Area 5 (designated)**	**Total**
Target Pilot Compensation	$332,963	$332,963	$332,963
Number of Pilots (step 3)	6	7	13
Total pilot compensation	$1,997,778	$2,330,741	$4,328,519
District Three	**Area (undesignated)**	**Area (designated)**	**Total**
Target Pilot Compensation	$332,963	$332,963	$332,963
Number of Pilots (step 3)	11	4	15
Total pilot compensation	$3,662,593	$1,331,852	$4,994,445

5. Working Capital Fund

Step 5 in our ratemaking methodology requires that the Coast Guard determine the working capital fund (proposed § 404.105). In the NPRM, we proposed changing the term for this step from ''Project return on investment'' to ''Determine working capital fund.'' Even though we proposed changing the name of the step, we did not propose changing the calculation.

The Coast Guard described the calculation of the working capital fund in the NPRM.[71] We calculated the working capital fund by multiplying the 2014 average rate of return for new issues of high-grade corporate securities, using the Moody's AAA bond rate information to determine the average annual rate of return for new issues of high-grade corporate securities, and Total Expenses from step 4 of the ratemaking analysis. The 2014 average annual rate of return for new issues of high-grade corporate securities was 4.16 percent.[72] This figure is added to the total revenue needed in the next stage.

One commenter stated the Coast Guard is not using the working capital fund to attract capital, and that this fund is better described as ''cash reserves for operating expenses.'' Similarly, the commenter[73] stated the Coast Guard failed to address why the pilotage should cover any expenses beyond direct expenses. The commenter stated that working capital fund is inappropriate under conventional regulatory ratemaking principles, and the rate payers should only pay for all operating expenses via the rates and surcharges. The commenter requested the Coast Guard eliminate the working capital fund. In its place, the Coast Guard should review and approve projects for funding with surcharges, ''assuming surcharges are structured in a manner that permits close pre-approved scrutiny to ensure the expenditure adds value to pilotage services and the surcharge is terminated when the specific need is met.''[74] The commenter stated he or she prefers the use of surcharges as it provides more clarity in the use of the funds than a working capital fund.

We disagree that the working capital fund should be abolished and that infrastructure improvements should only be paid for with surcharges. We believe that surcharges are a poor method for paying for infrastructure projects, which are often capital-intensive, with large upfront costs. It would be risky to try and recover these large upfront costs through surcharges due to general volatility in shipping levels, which might not cover the fixed costs of infrastructure. Using surcharges

[71] 81 FR 72014–5.

[72] Based on Moody's AAA corporate bonds, which can be found at: *http://research.stlouisfed.org/fred2/series/AAA/downloaddata?cid=119.*

[73] Docket #USCG–2016–0268–0033, p. 23.

[74] Docket #USCG–2016–0268–0033, p. 23.

for infrastructure projects would also increase volatility in shipping charges, which is not desirable. That is why the working capital fund is not structured to be a ''cash reserve'' for infrastructure projects. Instead, it is structured so that the pilot associations can demonstrate credit worthiness when seeking funds from a financial institution for needed infrastructure projects, and those projects can produce a return on investment at a rate commensurate to repay a financial institution. While we acknowledge that, currently, capital improvements are funded via surcharges, it is our belief that the working capital fund should allow us to limit the need for surcharges in the future.

TABLE 8—WORKING CAPITAL FUND CALCULATION

District One	Area 2 (undesignated)	Area 1 (designated)	Total
Adjusted Operating Expenses (Step 2)	$648,371	$516,353	$1,164,724
Total Target Pilot Compensation (Step 4)	3,329,630	2,330,741	5,660,371
Total 2017 Expenses (lines 1+2)	3,978,001	2,847,094	6,825,095
Multiply by Moody' High Grade Security Rate (4.16%)	165,485	118,439	283,924
District Two	**Area 4 (undesignated)**	**Area 5 (designated)**	**Total**
Adjusted Operating Expenses (Step 2)	816,016	1,224,024	2,040,040
Total Target Pilot Compensation (Step 4)	1,997,778	2,330,741	4,328,519
Total 2017 Expenses (lines 1+2)	2,813,794	3,554,765	6,368,559
Multiply by Moody' High Grade Security Rate (4.16%)	117,054	147,878	264,932
District Three	**Areas 6 and 8 (undesignated)**	**Area 7 (designated)**	**Total**
Adjusted Operating Expenses (Step 2)	1,463,402	487,114	1,950,516
Total Target Pilot Compensation (Step 4)	3,662,593	1,331,852	4,994,445
Total 2017 Expenses (lines 1+2)	5,125,995	1,818,966	6,944,961
Multiply by Moody' High Grade Security Rate (4.16%)	213,241	75,669	288,910

6. Calculation of Needed Revenue

Step 6 in our ratemaking methodology requires that the Coast Guard determine the projected revenue for the next year (§ 404.106). The needed revenue is determined by adding the proposed § 404.102 operating expense, the proposed § 404.104 total target compensation, and the proposed § 404.105 working capital fund. We did not receive any comments related to this step.

TABLE 9—CALCULATION OF NEEDED REVENUE

District One	Area 1 (designated)	Area 2 (undesignated)	Total
Adjusted Operating Expenses (Step 2)	$648,371	$516,353	$1,164,724
Total Target Pilot Compensation (Step 4)	3,329,630	2,330,741	5,660,371
Working Capital Fund (Step 5)	165,485	118,439	283,924
Total Revenue Needed	4,143,486	2,965,533	7,109,019
District Two	**Area 4 (undesignated)**	**Area 5 (designated)**	**Total**
Adjusted Operating Expenses (Step 2)	816,016	1,224,024	2,040,040
Total Target Pilot Compensation (Step 4)	1,997,778	2,330,741	4,328,519
Working Capital Fund (Step 5)	117,054	147,878	264,932
Total Revenue Needed	2,930,848	3,702,643	6,633,491
District Three	**Areas 6 and 8 (undesignated)**	**Area 7 (designated)**	**Total**
Adjusted Operating Expenses (Step 2)	1,463,402	487,114	1,950,516
Total Target Pilot Compensation (Step 4)	3,662,593	1,331,852	4,994,445
Working Capital Fund (Step 5)	213,241	75,669	288,910
Total Revenue Needed	5,339,236	1,894,635	7,233,871

7. Projection of Future Revenue and Calculation of Initial Base Rates

Step 7 in our ratemaking methodology requires that the Coast Guard make the initial base rate calculations. To make our initial base rate calculations, we first establish a multi-year base period from which we can draw available and reliable data on actual pilot hours worked in each district's designated and undesignated waters. In the NPRM, we proposed using data covering 2007

through 2015. We then calculated the new rates by dividing each association's projected needed revenue, from § 404.106, by the average number of bridge hours and rounding to the nearest whole number. We did not receive comments on this step.

TABLE 10a—CALCULATION OF AVERAGE TRAFFIC

District One	Area 2 (undesignated)	Area 1 (designated)
2016	.....	.....
2015	6,667	5,743
2014	6,853	6,810
2013	5,529	5,864
2012	5,121	4,771
2011	5,377	5,045
2010	5,649	4,839
2009	3,947	3,511
2008	5,298	5,829
2007	5,929	6,099
Average	5,597	5,390
District Two	**Area 4 (undesignated)**	**Area 5 (designated)**
2016	.....	.....
2015	6,535	5,967
2014	7,856	7,001
2013	4,603	4,750
2012	3,848	3,922
2011	3,708	3,680
2010	5,565	5,235
2009	3,386	3,017
2008	4,844	3,956
2007	6,223	6,049
Average	5,174	4,842
District Three	**Areas 6 and 8 (undesignated)**	**Area 7 (designated)**
2016	.....	.....
2015	22,824	2,696
2014	25,833	3,835
2013	17,115	2,631
2012	15,906	2,163
2011	16,012	1,678
2010	20,211	2,461
2009	12,520	1,820
2008	14,287	2,286
2007	24,811	5,944
Average	18,835	2,835

TABLE 10b—CALCULATION OF INITIAL BASE RATES

District One	Area 2 (undesignated)	Area 1 (designated)
Revenue Needed (Step 6)	$2,965,533	$4,143,486
Average traffic	5,597	5,390
Initial hourly rate	$530	$769
District Two	**Area 4 (undesignated)**	**Area 5 (designated)**
Revenue Needed (Step 6)	$2,930,848	$3,702,643
Average traffic	5,174	4,842
Initial hourly rate	$566	$765
District Three	**Areas 6 and 8 (undesignated)**	**Area 7 (designated)**
Revenue Needed (Step 6)	$5,339,236	$1,894,635
Average traffic	18,835	2,835
Initial hourly rate	$283	$668

8. Calculation of an Average Weighting Factor

In the NPRM, the Coast Guard sought public comment on how we should handle weighting factors in 46 CFR 401.400, which outlines the calculations for determining the weighting factors for a vessel subject to compulsory pilotage. This calculation determines which multiplication factor will be applied to the pilotage fees. The Coast Guard presented three options and requested public comment on which option should be implemented for future ratemakings. After receiving public comments on the NPRM, the Coast Guard decided to seek additional comments on this issue in a Supplemental Notice of Proposed Rulemaking.[75]

The first option was to maintain the status quo. This would maintain the collection of the current weighting factors and continue to exclude this revenue from the ratemaking calculation.

The second option was to remove weighting factors completely from the regulations and charge every vessel equally for pilotage service because a ship's dimensions have little impact on the experience and skill level of the pilot providing the service. We note that this option could mean simply charging every vessel the current ''base rate,'' or it could mean adjusting the rates for vessels so all vessels pay the current average weighted rate.

The third option was to incorporate weighting factors into the ratemaking through an additional step that examines and projects their impact on the revenues of the pilot associations. This might enable us to better forecast revenue, but it would add another variable to the projections in the ratemaking methodology.

One commenter said that they ''strongly urge the Coast Guard to maintain the status quo on weighting factors, at least until actual data suggest that changes are necessary and appropriate.'' [76] The commenter stated that the pilots have consistently failed to reach the target pilot compensation over the last decade, with the weighting factors included, and therefore changing the weighting factors would risk further contributing to the difficulty attracting and retaining pilots.

One commenter [77] stated that the Coast Guard's revenue projections would not be accurate if we did not include weighting factors to reflect vessel size. The commenter suggested that since the rates in the NPRM do not reflect weighting factors, the Coast Guard overstates the rates needed to generate the pilotage revenue. The actual pilotage charges include a weighting factor multiplier and additional charges. If the actual traffic is equal to the expected demand, then the pilot associations would receive revenue above the target revenue. The commenter provided an example using a 1.25 weighting factor, which is close to the 1.26 average weighting factor provided in GLPA data.[78] The commenter argued that if an average weighting factor of 1.25 for all traffic were applied for the 2017 shipping season, the pilot associations would receive pilotage rates sufficient to reach the $20.4 million target revenue, plus an additional 25 percent in weighting factor revenue, plus any additional amount charged to vessel operators.[79]

The commenter stated that they support the Coast Guard's proposed third alternative for weighting factors, and suggested we use an average weighting factor from either the current navigation season or the last full year of available data in order to project revenues for the next ratemaking. The commenter suggested we use an average weighting factor between 1.2 and 1.3.

The argument that not including the revenue from the weighting factors into our calculation of total revenue would throw off the calculations made intrinsic sense. Under the new methodology introduced in 2016, pilotage is billed on an hourly basis, and if actual revenues were approximately 25 percent higher than traffic would suggest they should be, then the weighting factors would appear to be the cause of that discrepancy. Under its own initiative, the Coast Guard examined the initial revenue reports from the 2016 shipping season from all three districts, and compared that to an average of weighting factor charges collected through the Great Lakes Pilotage Management System. The resulting comparison showed that the actual revenues were substantially higher than predicted—even given the higher-than-average traffic in 2016. The difference in expected revenue tracked closely, but not exactly, with the calculated average weighting factor in each District. This meant that shippers were paying approximately $5 million more annually in shipping charges than the needed revenue figure would suggest. It is important to note that non-compulsory pilotage did not significantly change the disparity between projected and collected revenues. Even though the three pilot associations generated in excess of $3 million for providing non-compulsory service, once we removed the bridge hours for those efforts, the revenues still revealed a $5 million difference.[80]

With this new information, the Coast Guard decided that there was an urgent need to address the extra revenues being brought in by the weighting factors in the 2017 ratemaking. To that end, we issued an SNPRM to address the weighting factors and to propose a modification to the methodology. Our intention, as stated in the SNPRM, is to establish a methodology that aligns projected revenues with actual collections.

In the SNPRM, we proposed a two-step process for accounting for the fees generated by the weighting factors. First, in a step we proposed to designate Step 8, we would calculate the average actual weighting factor in each area by using a weighted average of each class of vessels. We would create a rolling multi-year average of that number beginning with 2014, the year the weighting factors were set to current levels. Then, in Step 9, we would divide the initial base rate for each area, calculated in Step 7, by the weighting factor derived in Step 8, to produce a final shipping rate. This would have the effect of incorporating the additional revenues brought in by the weighting factors into the revenue model used to set rates. As expected, this led to significant reductions in pilotage fees, between the NPRM and SNPRM, across all three districts, as expressed in the table below.

[75] 82 FR 16542, April 5, 2017.

[76] Docket #USCG–2016–0268–0028, p. 9.

[77] Docket #USCG–2016–0268–0033, p. 29.

[78] Docket #USCG–2016–0268–0033, Exhibit I, Weighting Factor Data.

[79] Docket #USCG–2016–0268–0033, p. 31.

[80] District 1 had 920 hours of non-compulsory pilotage that generated $619,218. Removing those hours and revenues leaves 98 percent of projected pilotage service and 122 percent of projected revenues. District 2 had 1,920 hours of non-compulsory pilotage that generated $1,674,256. Removing those hours and revenues leaves 101 percent of projected pilotage service and 133 percent of projected revenues. District 3 had 2,745 hours of non-compulsory pilotage that generated $1,030,570. Removing those hours and revenues leaves 111 percent of projected pilotage service and 135 percent of projected revenues. Based on this analysis, we do not believe the non-compulsory pilotage significantly altered the measured disparity between traffic and revenue.

TABLE 11—COMPARISON OF HOURLY PILOTAGE RATES

Area	Pilotage charges per hour (per 2016 final rule)	NPRM proposed charges per hour	SNPRM proposed charges per hour
St. Lawrence River	$580	$757	$601
Lake Ontario	398	522	408
Navigable waters from Southeast Shoal to Port Huron, MI	684	720	580
Lake Erie	448	537	429
St. Mary's River	528	661	514
Lakes Huron, Michigan, and Superior	264	280	218

We solicited comments on this revision of methodology, and received an additional nine comment letters on this issue, which are addressed below. Several commenters expressed concern that pilot salaries on the Great Lakes were already too low, and that by incorporating the weighting factors into the revenue analysis, we would jeopardize safety on the Great Lakes as more pilots would leave the system. We respectfully disagree with this analysis. As explained in great detail in the NPRM and this final rule, we have significantly raised pilot compensation in recent years. In 2016, we raised target pilot compensation to $326,114 annually. Despite proposing no change in the 2017 NPRM, we have agreed with commenters who argued that this should be increased by inflation, to a total of $332,963. For the reasons described above, we believe this salary has been shown to dramatically reduce the recruitment and retention problems the Great Lakes pilots experienced in the past. Incorporating the revenue generated by the weighting factors into our analysis allows the Coast Guard to set a pilotage rate that achieves that outcome.

Several commenters made the argument that the Coast Guard's analysis was procedurally defective as a matter of law due to the way we undertook them. These commenters suggested that the Coast Guard used unaudited revenue figures to arrive at the revised analysis in the SNPRM, and that the use of those figures violated the requirement in 46 CFR 404.1(b), which states that annual reviews of pilotage association expenses and revenue will be based on audited data, and that data from completed reviews will be used in ratemaking.

We disagree with the commenters, and believe that they have fundamentally misinterpreted how the Coast Guard arrived at the SNPRM's proposal to adjust weighting factors. As described above, the Coast Guard's analysis of the weighting factors was not the result of the over-generation of revenue by the pilot associations. Rather, we were spurred to examine them by the commenters' logical arguments that the weighting factor produces revenue that goes to the pilot associations, and that by not accounting for that revenue, our ratemaking model was flawed. Mathematical logic suggested that if the weighting factors added, on average, 28 percent to the total fees collected that were not accounted for in the ratemaking model, then the pilot associations would be collecting 28 percent more revenues than would be expected given the amount of traffic measured.

We are aware that the commenters had made this argument in past years, but we had not accepted it. What was different this year is that it was the first year where the pilotage rates had been set under the new ratemaking model, adopted in the 2016 final rule. In previous years, where the old ratemaking model was used, data had always shown that actual revenues fell short of anticipated revenues. However, for the first time in 2017 there was data—the preliminary 2016 revenue numbers—that could be used to determine a rough estimate of the magnitude of any revenue surplus. When we compared the preliminary revenue numbers from 2016 to see if they bore out this hypothesis, we found that the numbers were similar. We are cognizant that traffic on the Great Lakes experienced a sharp rise in 2016, and that there would be a commensurate increase in revenues, but as expected, the increase in revenues far outpaced the increase in traffic.

We noted, however, that there were still some discrepancies in the figures. While the mathematics of the weighting factor would indicate that revenues would run approximately 28 percent higher, the revenue figures showed slightly lower numbers. We requested comments on this discrepancy in the SNPRM, but did not receive comments that would explain or correct it. Whatever the cause, we did not base the weighting factor reduction proposed in the SNPRM on those unaudited numbers. Doing so would have resulted in a slightly lower reduction than what was proposed, but on the actual calculated average of the billed weighting factors. We did not base the reduction on the preliminary, unaudited revenues provided by the pilot associations precisely because they were preliminary and unaudited.

Given the comments received, the Coast Guard does not see any reason to deviate from the weighting factors analysis in this final rule. We used the same multi-year rolling average standard for this calculation as we used for historic pilotage demand. Since the current weighting factors came into place in 2014, we used the data between 2014 and 2016 and will expand this data set until we reach our 10-year goal. They are calculated as follows:

TABLE 12—CALCULATION OF AVERAGE WEIGHTING FACTORS

Vessel class	Number of transits	Weighting factor	Multiplier
District One: Undesignated (Area 2):			
Class 1	71	1.00	71
Class 2	670	1.15	770.5
Class 3	130	1.30	169
Class 4	780	1.45	1,131

TABLE 12—CALCULATION OF AVERAGE WEIGHTING FACTORS—Continued

Vessel class	Number of transits	Weighting factor	Multiplier
Total Transits	1,651		2,141.5
Average Weighting Factor			1.30
District One: Designated (Area 1):			
Class 1	103	1.00	103
Class 2	765	1.15	879.75
Class 3	128	1.30	166.4
Class 4	736	1.45	1,067.2
Total Transits	1,732		2,216.35
Average Weighting Factor			1.28
District Two: Undesignated (Area 4):			
Class 1	63	1.00	63
Class 2	678	1.15	779.7
Class 3	20	1.30	26
Class 4	980	1.45	1,421
Total Transits	1,741		2,289.7
Average Weighting Factor			1.32
District Two: Designated (Area 5):			
Class 1	98	1.00	98
Class 2	1,090	1.15	1,253.5
Class 3	29	1.30	37.7
Class 4	1,664	1.45	2,412.8
Total Transits	2,881		3,802
Average Weighting Factor			1.32
District Three: Undesignated (Areas 6 and 8):			
Class 1	244	1.00	244
Class 2	1,237	1.15	1,422.55
Class 3	43	1.30	55.9
Class 4	1,801	1.45	2,611.45
Total Transits	3,325		4,333.9
Average Weighting Factor			1.30
District Three: Designated (Area 7):			
Class 1	105	1.00	105
Class 2	540	1.15	621
Class 3	10	1.30	13
Class 4	757	1.45	1,097.65
Total Transits	1,412		1,836.65
Average Weighting Factor			1.30

Step 9: Calculation of Revised Rate

In this penultimate step, we calculate the revised rate by incorporating the average weighting factor into the initial rate. The revised rate is calculated as follows:

TABLE 13—CALCULATION OF REVISED RATE

	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised rate (Step 9)
District One			
District One Designated	$769	1.28	$601
District One Undesignated	530	1.30	408
District Two			
District Two Designated	765	1.32	580
District Two Undesignated	566	1.32	429
District Three			
District Three Designated	668	1.30	514
District Three Undesignated	283	1.30	218

Step 10: Review and Finalize Rates

Section 401.10, often known as ''Director's discretion,'' allows the Coast Guard to adjust rates to ensure they meet the goal of providing safe and reliable pilotage. In the NPRM, we did not propose to use this discretion in our ratemaking, and we are not using it in this ratemaking. While we received comments suggesting we add language limiting the use of our discretion, we do not feel such language is necessary or appropriate to include in this final rule as the current methodology provides a fair and transparent means to meet the goals outlined in 46 CFR 404.1(a).

Surcharge Calculation

After the pilotage rates have been determined, the Coast Guard can authorize the pilot associations to impose a surcharge. In the NPRM, we proposed a 5 percent surcharge for District Two and a 15 percent surcharge for District Three to cover training expenses for nine applicant pilots. We proposed this number based on historical pilot costs, stipends, per diems, and training costs, which are approximately $150,000 per pilot per shipping season. We continue to find that allowing associations to recoup necessary and reasonable training expenses, both to help achieve a full complement of needed pilots and to ensure skill maintenance and development for current pilots, will facilitate safe, efficient, and reliable pilotage. Thus we are imposing a necessary and reasonable temporary surcharge, as authorized by 46 CFR 401.401. Based upon our records and communications with the various pilot associations, for 2017, we anticipate that there will be two applicant pilots in District Two, and seven applicant pilots in District Three.

We received one comment on this subject, stating that the surcharge adjustment of $150,000 was not enough for District Two, and that the amount for that district should be set instead at $250,000 to properly recover costs.[81] The same commenter, in a separate comment, also wrote that the 2014 applicant pilot salaries were $281,588.00 and the benefits were $96,613.00.[82] However, we were unable to confirm these assertions, because the commenter did not provide sufficient documentation with the comment. Any difference between the actual and assumed cost may be included in a future rulemaking. Again, we will determine which incurred expenses are necessary and reasonable, and ensure that the shippers are not double-charged for these same expenses.

Based on historic pilot costs, the stipend, per diem, and training costs, we continue to believe that the total costs for each applicant pilot are approximately $150,000 per shipping season. Thus, we estimate that the training expenses that each association will incur will be approximately $300,000 in District Two and $1,050,000 in District Three. Table 14 derives the proposed percentage surcharge for each district by comparing this estimate to each district's projected needed revenue.

TABLE 14—SURCHARGE CALCULATIONS

District Two	
Projected Needed Revenue (§ 404.106)	$6,663,002
Anticipated Training Expenses	$300,000
Surcharge Needed *	5%
District Three	
Projected Needed Revenue (§ 404.106)	$7,262,089
Anticipated Training Expenses	$1,050,000
Surcharge Needed *	15%

* Surcharge rounded up to the nearest whole percent.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

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

We developed an analysis of the costs and benefits of the rule to ascertain its probable impacts on industry.

Table 15 summarizes the regulatory changes that are expected to have no costs, and any qualitative benefits associated with them. The table also includes changes that affect portions of the methodology for calculating the base pilotage rates.

[81] Docket #USCG–2016–0268–0031.

[82] Docket #USCG–2016–0268–0032.

TABLE 15—REGULATORY CHANGES WITH NO COST OR COSTS CAPTURED IN THE RATE CHANGE

Changes	Description	Basis for no costs	Benefits
Mandatory change point on the Saint Lawrence River between Iroquois Lock and the area of Ogdensburg, NY.	Mandatory change point on the Saint Lawrence River between Iroquois Lock and the area of Ogdensburg, NY, that would become effective with the implementation of this final rule.	The addition of the change point will not require capital expenses. The only cost is for the new pilots, who are accounted for in the base pilotage rates and training surcharges.	Staffing additional pilots will help meet the increased demand for pilots to handle the additional assignments anticipated to be caused by the new change point. Additional pilots due to this change point should also serve to mitigate any potential delays and any potential fatigue that would occur from high pilotage demand without them.
Cancellation charges	Amending the cancellation charge provision in § 401.120(b) to ensure it explicitly states that the minimum charge for a cancellation is 4 hours plus necessary and reasonable travel expenses for the travel that occurs.	Clarification of existing text and current practice.	—Clarifies the current language to eliminate any potential confusion on the minimum charge for cancellations. —Clarification of the minimum charge ensures the recognition of pilots as a limited resource and encourages efficient use.
Surcharge provision	Adding a requirement to the surcharge regulation in § 401.401 to stop collecting funds once the assigned value has been recovered for the season.	Ensures the goal surcharge amount built into the year's rulemaking will not be surpassed, and prevents additional costs on industry.	Prevents excess amounts from being recouped from industry via the following year's rule.
Rename Return on Investment	Renaming Return on Investment as Working Capital Fund.	Clarifies the intent of the fund but does not change the method of calculation. Costs are included in the total revenues.	Clarifies the intent of this fund.
Set Pilot compensation for a 10-year period.	Addition of new language in § 404.104 that allows the Director to set compensation for a 10-year period to a compensation benchmark.	Pilot staffing costs are accounted for in the base pilotage rates.	Promotes target compensation stability and rate predictability.
Weighting Factors	Additional step in the ratemaking that accounts for the weighting factors.	Impacts the base pilotage rates, but does not impact the revenue projections.	Factors the impact of extra revenue generated by the weighting factors into the ratemaking analysis.

Table 16 summarizes the affected population, costs, and benefits of the regulatory requirements that are expected to have associated costs as a result of the rate change.

TABLE 16—REGULATORY ECONOMIC IMPACTS OF RATE CHANGE

Change	Description	Affected population	Costs	Benefits
Rate Changes	Under the Great Lakes Pilotage Act of 1960, the Coast Guard is required to review and adjust base pilotage rates annually.	Owners and operators of 230 vessels journeying the Great Lakes system annually.	$3,222,703	—New rates cover an association's necessary and reasonable operating expenses. —Provides fair compensation, adequate training, and sufficient rest periods for pilots. —Ensures the association makes enough money to fund future improvements.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See Sections II and III of this preamble for detailed discussions of the Coast Guard's legal basis and purpose for this rulemaking and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this rulemaking, we are adjusting the pilotage rates for the 2017 shipping season to generate sufficient revenues for each district to reimburse their necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate working capital fund to use for improvements. The rate changes in this rule will lead to an increase in the cost per unit of service to shippers in all three districts, and result in an estimated annual cost increase to shippers.

In addition to the increase in payments that would be incurred by shippers in all three districts from the previous year as a result of the rate changes, we propose authorizing a temporary surcharge to allow the pilotage associations to recover training expenses that would be incurred in 2017. For 2017, we anticipate that there

will be no applicant pilots in District One, two applicant pilots in District Two, and seven applicant pilots in District Three. With a training cost of $150,000 per pilot, we estimate that Districts Two and Three will incur $300,000 and $1,050,000 in training expenses, respectively. These temporary surcharges would generate a combined $1,350,000 in revenue for the pilotage associations. Therefore, after accounting for the implementation of the temporary surcharges across all three districts, the payments made by shippers during the 2017 shipping season are estimated to be approximately $3,222,703 more than the payments that were estimated in 2016 (table 18).[83]

The purpose of this rulemaking is to propose new base pilotage rates and surcharges for training. The last full ratemaking was concluded in 2016. Table 17 summarizes the changes in the RA from the NPRM to the final rule. These changes were the result of public comments received after publication of the NPRM and SNPRM.

TABLE 17—SUMMARY OF CHANGES FROM NPRM TO FINAL RULE

Element of the analysis	NPRM	Final rule	Resulting change in RA
Target Pilot Compensation.	$326,114	$332,963	Data indirectly affects the calculation of projected revenues.
Operating expenses	Incorrectly omitted payment of applicant pilot salaries from D2 operating expenses.	Corrected for this error, added amount of $281,588 to operating expenses in District Two.	Data indirectly affects the calculation of projected revenues.
Staffing Model	Proposed to modify 46 CFR 404.103 to change the calculation to focus on pilot work cycle. Staffing model found 54 pilots are needed in the Great Lakes system.	Leaving 46 CFR 404.103 as is. Staffing model found 49 pilots are needed in the Great Lakes system.	No impact on RA. Revenue is based on the expected 45 working pilots that will be working during the 2017 season, which is less than the projected needed pilots.
APA dues	Attributed 15% of APA dues to legal fees.	Corrected to attribute 5% of APA dues to legal fees.	Data directly affects operating expenses, which indirectly affects the calculation of projected revenues.
Weighting factors	Did not account for weighting factors	Incorporates weighting factors into base rates.	No impact on RA. Affects the calculation of the base rates, but not the projected revenues.

Affected Population

The shippers affected by these rate changes are those owners and operators of domestic vessels operating on register (employed in foreign trade) and owners and operators of foreign vessels on routes within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The statute applies only to commercial vessels and not to recreational vessels. U.S.-flagged vessels not operating on register and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not required to have pilots by 46 U.S.C. 9302. However, these U.S.- and Canadian-flagged lakers may voluntarily choose to have a pilot.

We used 2013 through 2015 billing information from the Great Lakes Pilotage Management System (GLPMS) to estimate the average annual number of vessels affected by the rate adjustment. The GLPMS tracks data related to managing and coordinating the dispatch of pilots on the Great Lakes and billing in accordance with the services. Using that period, we found that a total of 407 unique vessels used pilotage services over the years 2013 through 2015. These vessels had a pilot dispatched to the vessel and billing information was recorded in the GLPMS. The number of invoices per vessel ranged from a minimum of 1 invoice per year to a maximum of 65 invoices per year. Of these vessels, 383 were foreign-flagged vessels and 24 were U.S.-flagged. The U.S.-flagged vessels were not operating on register and are not required to have a pilot per 46 U.S.C. 9302, but they can voluntarily choose to have a pilot. U.S.-flagged vessels may opt to have a pilot for varying reasons such as unfamiliarity with designated waters and ports, or for insurance purposes.

Vessel traffic is affected by numerous factors and varies from year to year. Therefore, rather than the total number of vessels over the time period, an average of the unique vessels using pilotage services from 2013 through 2015 is the best representation of vessels estimated to be affected by this rule's rate. From 2013 through 2015, an average of 230 vessels used pilotage services annually.[84] On average, 219 of these vessels are foreign-flagged vessels and 11 are U.S.-flagged vessels that voluntarily opt into the pilotage service.

Costs

The rate changes would generate costs on industry in the form of higher payments for shippers. We calculate the cost in two ways in this RA, as the total cost to shippers and as a percentage of vessel operating costs.

Total Cost to Shippers

We estimate the effect of the rate changes on shippers by comparing the total projected revenues needed to cover costs in 2016 with the total projected revenues to cover costs in 2017, including any temporary surcharges authorized by the Coast Guard. The Coast Guard sets pilotage rates so that the pilot associations receive enough revenue to cover their necessary and reasonable expenses. The shippers pay these rates when they have a pilot as required by 46 U.S.C. 9302, or when U.S.-flagged vessels not operating on register voluntarily choose to have a pilot. Therefore, the aggregate payments of the shippers to the pilot associations are equal to the projected necessary revenues for the pilot associations. The revenues each year represent the total costs that shippers must pay for pilotage services, and the change in the revenues from the previous year is the additional cost to shippers from this rulemaking.

[83] Total payments across all three districts are equal to the increase in payments incurred by shippers as a result of the rate changes plus the temporary surcharges applied to traffic in Districts One, Two, and Three.

[84] Some vessels entered the Great Lakes multiple years, affecting the average number of unique vessels utilizing pilotage services in any given year.

The effect of the rate changes on shippers is estimated from the district pilotage projected revenues and the surcharges described in this preamble. We estimate that for the 2017 shipping season, the projected revenue needed for all three districts is $20,976,381. Temporary surcharges on traffic in District Two and District Three would be applied for the duration of the 2017 season in order for the pilotage associations to recover training expenses incurred for applicant pilots. We estimate that the pilotage associations require an additional $300,000 and $1,050,000 in revenue for applicant training expenses in Districts Two and Three, respectively. This is an additional cost to shippers of $1,350,000 during the 2017 shipping season. Adding the projected revenue to the surcharges, we estimate the pilotage associations' total projected needed revenue for 2017 would be $22,326,381. The 2017 projected revenues for the districts are from table 9 of this preamble. To estimate the additional cost to shippers from this rule, we compare the 2017 total projected revenues to the 2016 projected revenues. In the 2016 rulemaking,[85] we estimated the total projected revenue needed for 2016, including surcharges, is $19,103,678. This is the best approximation of 2016 revenues as, at the time of this publication, we do not have audited data available for the 2016 shipping season to revise these projections. Table 18 shows the revenue projections for 2016 and 2017 and details the additional cost increases to shippers by area and district as a result of the rate changes and temporary surcharges on traffic in Districts One, Two, and Three.

TABLE 18—EFFECT OF THE RULE BY AREA AND DISTRICT

[$U.S.; Non-discounted]

Area	Revenue needed in 2016	2016 temporary surcharge	Total 2016 projected revenue	Revenue needed in 2017	2017 Temporary surcharge	Total 2017 projected revenue	Additional costs of this rule
Total, District One	$5,354,945	$450,000	$5,804,945	$7,109,019	$0	$7,109,019	$1,304,074
Total, District Two	5,629,641	300,000	5,929,641	6,633,491	300,000	6,933,491	1,003,850
Total, District Three	6,469,092	900,000	7,369,092	7,233,871	1,050,000	8,283,871	914,779
System Total	17,453,678	1,650,000	19,103,678	20,976,381	1,350,000	22,326,381	3,222,703

The resulting difference between the projected revenue in 2016 and the projected revenue in 2017 is the annual change in payments from shippers to pilots as a result of the rate change imposed by this rule. The effect of the rate change in this rule on shippers varies by area and district. The rate changes, after taking into account the increase in pilotage rates and the addition of temporary surcharges, would lead to affected shippers operating in District One, District Two, and District Three experiencing an increase in payments of $1,304,074, $1,003,850, and $914,779, respectively, from the previous year. The overall adjustment in payments would be an increase in payments by shippers of $3,222,703 across all three districts (a 17 percent increase over 2016, including surcharges). Because the Coast Guard must review and prescribe rates for Great Lakes Pilotage annually, the effects are estimated as single year costs rather than annualized over a 10-year period.

Table 19 shows the difference in revenue by component from 2016 to 2017.[86] The majority of the increase in revenue is due to the addition of 8 pilots that were authorized in the 2016 rule. These eight pilots trained during 2016 are full-time working pilots during the 2017 shipping season. These pilots will be compensated at the target compensation established in the 2016 final rule, plus inflation ($332,963 per pilot). The addition of these pilots to full working status accounts for $2,663,704 of the increase. The remaining amount is attributed to inflation of operating expenses, working capital fund, and differences in the surcharges from 2016.

TABLE 19—DIFFERENCE IN REVENUE BY COMPONENT

Revenue component	Revenue needed in 2016	Revenue needed in 2017	Difference (2017 revenue −2016 Revenue)
Adjusted Operating Expenses	$4,677,518	$5,155,280	$477,762
Total Target Pilot Compensation	12,066,226	14,983,335	2,917,109
Working Capital Fund	709,934	837,766	127,832
Total Revenue Needed, without Surcharge	17,453,678	20,976,381	3,522,703
Surcharge	1,650,000	1,350,000	−300,000
Total Revenue Needed, with Surcharge	19,103,678	22,326,381	3,222,703

Pilotage Rates as a Percentage of Vessel Operating Costs

To estimate the impact of U.S. pilotage costs on the foreign vessels affected by the rate adjustment, we looked at the pilotage costs as a percentage of a vessel's costs for an entire voyage. The part of the trip on the Great Lakes using a pilot is only a portion of the whole trip. The affected vessels are often traveling from a foreign port, and the days without a pilot on the total trip often exceed the days a pilot is needed.

[85] 2016 projected revenues are from the 2016 rulemaking, 81 FR 11937, Figures 31 and 32.

[86] The 2016 projected revenues are from the 2016 rulemaking, 81 FR 11934, Figures 24 and 28. The 2017 projected revenues are from Table 106 of this NPRM.

To estimate this impact, we used 2013 through 2015 vessel arrival data from the Coast Guard's Ship Arrival Notification System and pilotage billing data from the GLPMS. A random sample of 50 arrivals was taken from GLPMS data. To estimate the impact of pilotage costs on the costs of an entire trip, we estimated the length of each one-way trip. We used the vessel name and the date of the arrival to find the last port of call before entering the Great Lakes system. The date of the departure from this port was used as the start date of the trip. To find the end date of the trip we used GLPMS data to find all the pilotage charges associated with this vessel during this trip in the Great Lakes system. The last pilotage charge before beginning the trip to exit the system was used as the end date of the one-way trip. We estimated the total operating cost by multiplying the number of days for each trip by the 2015 average daily operating cost and added this to the total pilotage costs from GLPMS for each trip. In 2015 the average daily operating costs, excluding fixed costs, for Great Lakes bulkers and tankers ranged roughly from $5,191 to $7,879.[87] The total pilotage charges for each trip were updated to the 2016 rates using the average rate increases in the Great Lakes Pilotage Rates 2013–2016 Annual Review and Adjustments final rules.[88] The total updated pilotage charges for each trip were then divided by the total operating cost of the trip. We found that for a vessel's one-way trips, the U.S. pilotage costs could account for approximately 16.9 percent[89] of the total operating costs for a foreign vessel's voyage using 2016 rates.

We also estimated the impact of the rate increase in this rule. We took the same 50 trips and updated the pilotage costs to the 2017 rates, an average increase of 20 percent, excluding surcharges. With this rule's rates for 2017, pilotage costs are estimated to account for 19.6 percent of total operating costs, or a 2.7 percentage point increase[90] over the current cost. The total operating costs do not include the fixed costs of the vessels. If these costs were included in the total costs, the pilotage rates as a percentage of total costs would be lower.

Benefits

This rule allows the Coast Guard to meet the requirements in 46 U.S.C. 9303 to review the rates for pilotage services on the Great Lakes. The rate changes will promote safe, efficient, and reliable pilotage service on the Great Lakes by ensuring rates cover an association's operating expenses; provide fair pilot compensation, adequate training, and sufficient rest periods for pilots; and ensures the association makes enough money to fund future improvements. The rate changes will also help recruit and retain pilots, which will ensure a sufficient number of pilots to meet peak shipping demand, which would help reduce delays caused by pilot shortages.

The amendment of the cancellation charge in § 401.120(b) will prevent confusion and help ensure that it explicitly states that the minimum charge for a cancellation is 4 hours. The limitation to the surcharge regulation in § 401.401 would prevent excess amounts from being recouped via the following year's rule. The changes to § 404.104 will promote target compensation stability and rate predictability.

B. Small Entities

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

For the rule, we reviewed recent company size and ownership data for the vessels identified in GLPMS and we reviewed business revenue and size data provided by publicly available sources such as MANTA[91] and ReferenceUSA.[92] As described in Section VI.A of this preamble, Regulatory Planning and Review, we found that a total of 407 unique vessels used pilotage services from 2013 through 2015. These vessels are owned by 119 entities. We found that of the 119 entities that own or operate vessels engaged in trade on the Great Lakes affected by this rule, 104 are foreign entities that operate primarily outside of the United States. The remaining 15 entities are U.S. entities. We compared the revenue and employee data found in the company search to the Small Business Administration's (SBA) Table of Small Business Size Standards[93] to determine how many of these companies are small entities. Table 20 shows the NAICS codes of the U.S. entities and the small entity standard size established by the SBA.

TABLE 20—NAICS CODES AND SMALL ENTITIES SIZE STANDARDS

NAICS	Description	Small business size standard
238910	Site Preparation Contractors	$15 million.
441222	Boat Dealers	$32.5 million.
483113	Coastal & Great Lakes Freight Transportation	750 employees.
483211	Inland Water Freight Transportation	750 employees.
483212	Inland Water Passenger Transportation	500 employees.
487210	Scenic & Sightseeing Transportation, Water	$7.5 million.
488320	Marine Cargo Handling	$38.5 million.

[87] ''*Ship operating costs: Current and future trends,*'' Richard Grenier, Moore Stephens LLP, December 2015. The 2015 weighted average operating cost is estimated at $5,191 for a handysize bulker, $5,771 for a handymax bulker, and $7,879 for a product tanker. These costs include only the costs of operating and do not include any fixed costs of the vessels, such as amortization of vessel construction costs. The operating costs include crew wages, provisions, other crew costs, lubricating oils and store costs, spares, repair and maintenance, P&I insurance, marine insurance, registration costs, management fees, and sundry expenses.

[88] The average percentage changes in the rates for 2013–2016, were 1.87 percent, 2.5 percent, 10 percent, and 12 percent, respectively.

[89] For the random sample of 50 arrivals, the average of the pilotage costs as a percentage of the total operating costs was 16.9 percent. The percentages ranged from a low of 3.2 percent to a high of 35.2 percent.

[90] 19.6 percent of total operating costs in 2017 − 16.9 percent of total operating costs in 2016 = 2.7 percent incremental increase of pilotage costs as a percentage of total operating costs.

[91] See *http://www.manta.com/.*

[92] See *http://resource.referenceusa.com/.*

[93] Source: *https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards.* SBA has established a Table of Small Business Size Standards, which is matched to NAICS industries. A size standard, which is usually stated in number of employees or average annual receipts (''revenues''), represents the largest size that a business (including its subsidiaries and affiliates) may be considered in order to remain classified as a small business for SBA and Federal contracting programs.

TABLE 20—NAICS CODES AND SMALL ENTITIES SIZE STANDARDS—Continued

NAICS	Description	Small business size standard
488330	Navigational Services to Shipping	$38.5 million.
488510	Freight Transportation Arrangement	$15 million.

The entities all exceed the SBA's small business standards for small businesses. Further, these U.S. entities operate U.S.-flagged vessels and are not required to have pilots as required by 46 U.S.C. 9302, because they are not engaged in foreign commerce.

In addition to the owners and operators of vessels affected by this rule, there are three U.S. entities affected by the rule that receive revenue from pilotage services. These are the three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are designated with the same NAICS industry classification and small-entity size standards described above, but they have fewer than 500 employees; combined, they have approximately 65 employees. We expect no adverse effect to these entities from this rule because all associations receive enough revenue to balance the projected expenses associated with the projected number of bridge hours and pilots.

We did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields. We did not find any small governmental jurisdictions with populations of fewer than 50,000 people. Based on this analysis, we found this rulemaking, if promulgated, would not affect a substantial number of small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Todd Haviland, Director, Great Lakes Pilotage, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–2037, email *Todd.A.Haviland@uscg.mil,* or fax 202–372–1914. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

D. Collection of Information

This rule will call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This rule will not change the burden in the collection currently approved by OMB under OMB Control Number 1625–0086, Great Lakes Pilotage Methodology.

E. Federalism

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. Our analysis follows.

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' (*See* 46 U.S.C. 9303(f).) This regulation is issued pursuant to that statute and is preemptive of state law as specified in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this preamble.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (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.

G. Taking of Private Property

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

H. Civil Justice Reform

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

I. Protection of Children

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

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments'') because it would not have a substantial direct effect on one or more 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.

K. Energy Effects

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

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. 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 it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble. This rule is categorically excluded under paragraphs 34(a), regulations which are editorial or procedural, of the Coast Guard's NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1D.

List of Subjects

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 404

Great Lakes, Navigation (water), Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 401 and 404 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.d), (92.e), (92.f).

■ 2. Revise § 401.401 to read as follows:

§ 401.401 Surcharges.

To facilitate safe, efficient, and reliable pilotage, and for good cause, the Director may authorize surcharges on any rate or charge authorized by this subpart. Surcharges must be proposed for prior public comment and may not be authorized for more than 1 year. Once the approved amount has been received, the pilot association is not authorized to collect any additional funds under the surcharge authority and must cease such collections for the remainder of that shipping season.

■ 3. Revise § 401.405 to read as follows:

§ 401.405 Pilotage rates and charges.

(a) The hourly rate for pilotage service on—

(1) The St. Lawrence River is $601;

(2) Lake Ontario is $408;

(3) Lake Erie is $429;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $580;

(5) Lakes Huron, Michigan, and Superior is $218; and

(6) The St. Mary's River is $514.

* * * * *

■ 4. Revise § 401.420 to read as follows:

§ 401.420 Cancellation, delay, or interruption in rendition of services.

* * * * *

(b) When an order for a U.S. pilot's service is cancelled, the vessel can be charged for the pilot's reasonable travel expenses for travel that occurred to and from the pilot's base, and the greater of—

(1) Four hours; or

(2) The time of cancellation and the time of the pilot's scheduled arrival, or the pilot's reporting for duty as ordered, whichever is later.

* * * * *

■ 5. Revise § 401.450 as follows:

■ a. Redesignate paragraphs (b) through (j) as paragraphs (c) through (k), respectively; and

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

§ 401.450 Pilotage change points.

* * * * *

(b) The Saint Lawrence River between Iroquois Lock and the area of Ogdensburg, NY, beginning October 2, 2017;

PART 404—GREAT LAKES PILOTAGE RATEMAKING

■ 6. The authority citation for part 404 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.f).

■ 7. Amend § 404.101(a) as follows:

§ 404.100 Ratemaking and annual reviews in general.

(a) The Director establishes base pilotage rates by a full ratemaking pursuant to § 404.101–404.110 of this part, conducted at least once every 5 years and completed by March 1 of the first year for which the base rates will be in effect. Base rates will be set to meet the goal specified in § 404.1(a) of this part.

■ 8. Amend § 404.103 as follows:

■ a. In paragraph (a), following the words ''dividing each area's'' remove the word ''peak'' and add, in its place, the word ''seasonal''; and

■ b. Revise paragraph (b) to read as follows:

§ 404.103 Ratemaking step 3: Determine number of pilots needed.

* * * * *

(b) Pilotage demand and the base seasonal work standard are based on available and reliable data, as so deemed by the Director, for a multi-year base period. The multi-year period is the 10 most recent full shipping seasons, and the data source is a system approved under 46 CFR 403.300. Where such data are not available or reliable, the Director also may use data, from additional past full shipping seasons or other sources, that the Director determines to be available and reliable.

* * * * *

■ 9. Revise § 404.104 to read as follows:

§ 404.104 Ratemaking step 4: Determine target pilot compensation benchmark.

At least once every 10 years, the Director will set a base target pilot compensation benchmark using the most relevant available non-proprietary information. In years in which a base compensation benchmark is not set, target pilot compensation will be adjusted for inflation using the CPI for the Midwest region or a published predetermined amount. The Director determines each pilotage association's total target pilot compensation by multiplying individual target pilot compensation by the number of pilots projected under § 404.103(d) of this part.

§ 404.105 [Amended]

■ 10. In the section heading of § 404.105, remove the words ''return on investment'' and add, in their place, the words ''working capital fund.''

■ 11. In the first sentence of § 404.105, remove the words ''return on investment'' and add, in their place, the words ''working capital fund.''

■ 12. Revise § 404.107 to read as follows:

§ 404.107 Ratemaking step 7: Initially calculate base rates.

The Director initially calculates base hourly rates by dividing the projected needed revenue from § 404.106 of this part by averages of past hours worked in each district's designated and undesignated waters, using available and reliable data for a multi-year period set in accordance with § 404.103(b) of this part.

■ 13. Revise § 404.108 to read as follows:

§ 404.108 Ratemaking step 8: Calculate average weighting factors by Area.

The Director calculates the average weighting factor for each area by computing the 10-year rolling average of weighting factors applied in that area, beginning with the year 2014. If less than 10 years of data are available, the Director calculates the average weighting factor using data from each year beginning with 2014.

■ 14. Add new § 404.109 to read as follows:

§ 404.109 Ratemaking step 9: Calculate revised base rates.

The Director calculates revised base rates for each area by dividing the initial base rate (from Step 7) by the average weighting factor (from Step 8) to produce a revised base rate for each area.

■ 15. Add new § 404.110 to read as follows:

§ 404.110 Ratemaking step 10: Review and finalize rates.

The Director reviews the base pilotage rates calculated in § 404.109 of this part to ensure they meet the goal set in § 404.1(a) of this part, and either finalizes them or first makes necessary and reasonable adjustments to them based on requirements of Great Lakes pilotage agreements between the United States and Canada, or other supportable circumstances.

Dated: August 24, 2017.

Michael D. Emerson,

Director, Marine Transportation Systems, U.S. Coast Guard.

[FR Doc. 2017–18411 Filed 8–30–17; 8:45 am]

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FEDERAL REGISTER

Vol. 82 Thursday,

No. 168 August 31, 2017

Part III

The President

Executive Order 13809—Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources

Federal Register
Vol. 82, No. 168
Thursday, August 31, 2017

Presidential Documents

Title 3—

The President

Executive Order 13809 of August 28, 2017

Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Revocation of Executive Order 13688.* Executive Order 13688 of January 16, 2015 (Federal Support for Local Law Enforcement Equipment Acquisition), is hereby revoked.

Sec. 2. *Revocation of Recommendations Issued Pursuant to Executive Order 13688.* The recommendations issued pursuant to Executive Order 13688 do not reflect the policy of the executive branch. All executive departments and agencies are directed, as of the date of this order and consistent with Federal law, to cease implementing those recommendations and, if necessary, to take prompt action to rescind any rules, regulations, guidelines, or policies implementing them.

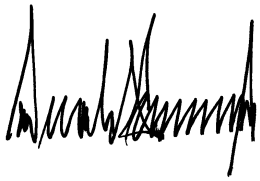
Sec. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
August 28, 2017.

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Federal Register

Vol. 82, No. 168

Thursday, August 31, 2017

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Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
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Public Laws Update Service (numbers, dates, etc.)	**741–6043**

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FEDERAL REGISTER PAGES AND DATE, AUGUST

35623–35882 1
35883–36076 2
36077–36318 3
36319–36686 4
36687–36990 7
36991–37170 8
37171–37294 9
37295–37510 10
37511–37804 11
37805–38590 14
38591–38820 15
38821–39006 16
39007–39334 17
39335–39490 18
39491–39654 21
39655–39952 22
39953–40066 23
40067–40472 24
40473–40666 25
40667–40942 28
40943–41156 29
41157–41320 30
41321–41500 31

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.

1 CFR

Proposed Rules:
Ch. IV 35689, 35697
Ch. VI 35689, 35697

3 CFR

Proclamations:
9629.....35881
9630.....40471
9631.....41317

Executive Orders:
13688 (Revoked by 13809) 41499
13690 (Revoked by EO 13807).....40463
13807.....40463
13808.....41155
13809.....41499

Administrative Orders:
Memorandums:
Memorandum of August 14, 2017.....39007
Memorandum of August 15, 2017.....39953
Memorandum of August 25, 2017.....41319
Notices:
Notice of August 15, 2017 39005
Presidential Determinations:
No. 2017–10 of July 21, 2017 40667

4 CFR

Proposed Rules:
81 37545

5 CFR

532.....40669, 41321
9401 35883

7 CFR

1 37171
51 39655
52 39658
319.....38591
929.....36991
1205.....38595

Proposed Rules:
982.....39369
1051 37827

9 CFR

530.....37295, 39659
531.....37295, 39659
532.....37295, 39659
533.....37295, 39659
534.....37295, 39659
537.....37295, 39659
539.....37295, 39659
540.....37295, 39659
541.....37295, 39659
544.....37295, 39659
548.....37295, 39659
550.....37295, 39659
552.....37295, 39659
555.....37295, 39659
557.....37295, 39659
559.....37295, 39659
560.....37295, 39659
561.....37295, 39659

Proposed Rules:
1 40077
2 40077
94 37546

10 CFR

72.....37511, 41321
429.....36858
431.....36858
611.....41157
835.....37512

Proposed Rules:
30 39971
429.....37031
430 .....36349, 37031, 38613
431.....41179

12 CFR

Ch. II 40473
1026.....37656, 41158

Proposed Rules:
3 40943
44 36692
211 39049
217 40495
238 39049
324 40495
Ch. VII.....39702
741 35705
1026.....37794

13 CFR

107.....39335
109.....39491
115.....39491
120.....39491

Proposed Rules:
Ch. I 38617

14 CFR

23 40943
25 .....35623, 36319, 36320, 36322, 36326, 36328, 37805, 37806, 37811
39 .....35628, 35630, 35634, 35636, 35638, 35641, 35644, 35647, 35888, 37172, 37296, 39341, 39344, 39347, 39351, 39355, 39506, 39509, 39511, 39513, 39518, 39520, 39523, 39525, 39529, 40474, 40477, 40479, 40670, 40672, 40675,

40681, 40683, 40686, 40688, 40690, 41160, 41323, 41326, 41329, 41331
71 .....35649, 36077, 36078, 37514, 37814, 38821, 38822, 39532, 40067, 40692, 40694, 40695, 40696, 40697
91.....39660, 40944
97 .....35890, 35896, 39009, 39011, 39013, 39018
Proposed Rules:
39 .....35911, 35917, 37360, 37366, 37546, 37549, 37554, 38618, 38621, 38623, 38626, 38629, 38632, 38634, 38637, 38641, 39062, 39545, 40503, 40505, 40508, 40511, 40514, 40516, 40735, 41179
71 .....35714, 35716, 35918, 36103, 36105, 37369, 38856, 38857, 39065, 39549, 40078, 40080, 40737, 40739, 40740, 41182
91.....35920, 36697

15 CFR
740.....38764
772.....38764
774.....38764
902.....36991

16 CFR
310.....39533
1015.....37004
1308.....41163
Proposed Rules:
Ch. II.....36705

17 CFR
211.....40946
231.....41147, 41149
241.....41147, 41149
271.....41147, 41149

18 CFR
Proposed Rules:
11.....41359
35.....40081

20 CFR
404.....39664
Proposed Rules:
1011.....39371

21 CFR
121.....40484
133.....37815
573.....38595
860.....39534
Proposed Rules:
117.....41364
172.....39711

22 CFR
121.....41172

26 CFR
1.....37817

28 CFR
16.....35651

29 CFR
4022.....38597
Proposed Rules:
1926.....41184
2550.....41365

30 CFR
1202.....36934
1206.....36934

32 CFR
706.....35898

33 CFR
100 .....35654, 37010, 37174, 38598, 38823, 39357, 40069, 40698
117 .....35655, 36332, 36687, 37011, 37299, 38600, 38602, 39019, 39360, 39665, 39955, 40699, 40700, 41173, 41174
147.....37176
165 .....35655, 35900, 36333, 36688, 37299, 37515, 37517, 37520, 38603, 39020, 39023, 39025, 39360, 39535, 39665, 39955, 40070, 40485, 40486, 40489, 41174, 41333
Proposed Rules:
100.....35717
110.....38643
165.....37182, 39972
209.....40085
328.....39712, 40742

34 CFR
668.....39362
Proposed Rules:
Subtitle A 37555
Ch. I 37555
Ch. II 37555
Ch. III 37555
Ch. IV.....37555
Ch. V.....37555
Ch. VI 37555, 40518, 41194
Ch. VII.....37555

36 CFR
Proposed Rules:
407.....39067

37 CFR
Proposed Rules:
202.....38859

38 CFR
4.....36080
36.....35902, 40700
60.....35905
Proposed Rules:
4.....35719
8.....39974
61.....35922, 38646

39 CFR
111.....39957
Proposed Rules:
3050 .....36705, 36706, 37036

40 CFR
52 .....37012, 37013, 37015, 37020, 37025, 37299, 37305, 37307, 37308, 37310, 37316, 37817, 37819, 38604, 38605, 38825, 38828, 38832, 38834, 38838, 38841, 39027, 39030, 39031, 39035, 39537, 39671, 40072, 40491, 40701, 40703, 40710, 40712, 40715, 40718, 40949, 40953, 41335, 41337, 41342
60.....36688, 37822
62.....35906, 36335
63.....39671
81 .....37318, 40718, 40953
98.....41343
136.....40836
180 .....36086, 36090, 36335, 38844, 38846, 38849, 39541
271.....37319
300.....36095
372.....39038
710.....37520
Proposed Rules:
52 .....35734, 35738, 35922, 36707, 37037, 37371, 37374, 37375, 37378, 37379, 37384, 37389, 37829, 38646, 38651, 38654, 38660, 38864, 38865, 38866, 38874, 39070, 39078, 39079, 39083, 39090, 39097, 39396, 39551, 40085, 40086, 40519, 40743, 40963, 41197, 41376, 41379, 41386
63 .....36713, 39712, 40103, 40970
80.....37184, 39098
86.....39551, 39976
110.....39712, 40742
112.....39712, 40742
116.....39712, 40742
117.....39712, 40742
122.....39712, 40742
158.....39399
192.....35924
230.....39712
232.....39712, 40742
271.....37396
300 .....36106, 39712, 40742
302.....39712, 40742
372.....39101
401.....39712, 40742
711.....39402

41 CFR
105–70.....40957

42 CFR
405.....37990
409.....36530
411.....36530
412.....36238, 37990
413.....36530, 37990
414.....37990
416.....37990
418.....36638
424.....36530
486.....37990
488.....36530, 37990
489.....37990
495.....37990
Proposed Rules:
10.....39553
510.....39310
512.....39310

45 CFR
1600.....37327
1629.....37177
1630.....37327
1631.....37327

46 CFR
401.....41466
403.....41466
404.....41466

47 CFR
1.....41096
15.....41096
25 .....37027, 40493, 41096
54.....39966
64.....39673
73 .....37354, 41096, 41343
74.....37354
76.....35658
79.....37345
95.....41096
96.....39683
Ch. V.....40958
Proposed Rules:
0.....39715
1.....39715, 40118
15.....39715
20.....39715, 40118
43.....40118
54.....39715, 40520
64.....37830
73.....39716

48 CFR
1852.....38852
Proposed Rules:
252.....35741

49 CFR
383.....36101
1002.....35906
Proposed Rules:
240.....37038
242.....37038
389.....36719
391.....37038
523.....39551
531.....39551
533.....39551
536.....39551
537.....39551

50 CFR
13.....41177
20.....41344
216.....39044
218.....39684
226.....39160
300 .....36341, 37824, 40720
622 .....35658, 36102, 36344, 40075
635 .....36689, 37825, 38853, 39047, 41356
648 .....35660, 35686, 37359, 39363, 40721
660.....35687
679 .....35910, 36348, 36991, 38611, 38612, 39366, 41178, 41358
Proposed Rules:
17.....37397
20 .....36308, 38664, 39716
32.....37398
216.....39732
300.....36724
622.....39733, 41205
635.....39735
660.....39977
665.....41388
679.....39743
680.....36111, 39743

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 August 23, 2017

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