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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2015–0091]

RIN 0579–AE24

Importation of Orchids in Growing Media From the Republic of Korea Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of plants for planting to add orchid plants of the genera *Phalaenopsis* and *Cymbidium* from the Republic of Korea to the list of plants that may be imported into the continental United States in an approved growing medium, subject to specified growing, inspection, and certification requirements. We are taking this action in response to a request from the Republic of Korea and after determining that the plants could be imported under certain conditions without resulting in the introduction into, or the dissemination within, the United States of a plant pest or noxious weed.

DATES: Effective October 16, 2017.

FOR FURTHER INFORMATION CONTACT: Mrs. Rosemarie Rodriguez-Yanes, Regulatory Policy Specialist, Plants for Planting Policy, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737, (301) 851–2313.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation into the United States of certain plants and plant products to prevent the introduction of plant pests and noxious weeds. The regulations in “Subpart—Plants for Planting,” §§ 319.37 through

319.37–14 (referred to below as the regulations) contain, among other things, prohibitions and restrictions on the importation of plants, plant parts, and seeds for propagation.

Paragraph (a) of § 319.37–8 of the regulations requires, with certain exceptions, that plants offered for importation into the United States be free of sand, soil, earth, and other growing media. This requirement is intended to help prevent the introduction of plant pests that might be present in the growing media; the exceptions to the requirement take into account factors that mitigate plant pest risks. Those exceptions, which are found in paragraphs (b) through (e) of § 319.37–8, consider either the origin of the plants and growing media (paragraph (b)), the nature of the growing media (paragraphs (c) and (d)), or the use of a combination of growing conditions, approved media, inspections, and other requirements (paragraph (e)).

Paragraph (e) of § 319.37–8 provides conditions under which certain plants established in growing media may be imported into the United States. In addition to specifying the types of plants that may be imported, § 319.37–8(e) also:

- Specifies the types of growing media that may be used;
- Requires plants to be grown in accordance with written agreements between the Animal and Plant Health Inspection Service (APHIS) and the national plant protection organization (NPPO) of the country where the plants are grown and between the foreign NPPO and the grower;
- Requires the plants to be rooted and grown in a greenhouse that meets certain requirements for pest exclusion and that is used only for plants being grown in compliance with § 319.37–8(e);
- Requires that the parent plants of the exported plants in growing media are produced from seed germinated in the production greenhouse or from mother plants that are grown and monitored for a specified period prior to export of the descendant plants;
- Specifies the sources of water that may be used on the plants, the height of the benches on which the plants must be grown, and the conditions under which the plants must be stored and packaged; and

- Requires that the plants be inspected in the greenhouse and found free of evidence of plant pests no more than 30 days prior to the exportation of the plants.

A phytosanitary certificate issued by the NPPO of the country in which the plants were grown that declares that the above conditions have been met must accompany the plants at the time of importation. These conditions have been used successfully to mitigate the risk of pest introduction associated with the importation into the United States of approved plants established in growing media.

On August 12, 2016, we published in the **Federal Register** (81 FR 53334–53336, Docket No. 15–091–1) a proposal¹ to amend the regulations governing the importation of plants for planting to add orchid plants of the genera *Phalaenopsis* and *Cymbidium* from the Republic of Korea to the list of plants that may be imported into the continental United States in an approved growing medium, subject to specified growing, inspection, and certification requirements. We took that action in response to a request from the NPPO of the Republic of Korea and after determining that the plants could be imported under certain conditions without introducing or disseminating a plant pest or noxious weed within the United States.

We solicited comments concerning our proposal for 60 days ending October 11, 2016. We received five comments by that date, from members of the public, a State floriculture council, and a State agriculture agency. The comments are discussed below.

One commenter supported the action but asked if there were regulations that provided compensation to stakeholders should the proposed safeguards be ineffective and result in losses.

The regulations do not contain such provisions for the payment of compensation.

One commenter raised concerns regarding the possible introduction of *Spodoptera litura* into a high-risk sentinel State, particularly since *S. litura* has reportedly been intercepted at ports of entry on orchids from abroad.

¹ To view the proposed rule, pest risk assessment (PRA), risk management document (RMD), environmental assessment (EA), finding of no significant impact (FONSI), and the comments we received, go to <https://www.regulations.gov/docket?D=APHIS-2015-0091>.

The commenter stated that the cost to eradicate the pest, or any pest, would severely impact the State's agricultural industry. Similarly, another commenter asked why we would approve the importation of a plant that presents even a medium risk of introducing pests that could negatively impact the U.S. floriculture industry.

We agree that, if the quarantine pests identified by the PRA were to be introduced into the United States, they could cause economic losses for domestic producers. However, for the reasons specified in the RMD and the proposed rule itself, if the provisions of this rule are adhered to, we have determined that they will mitigate the plant pest risk associated with the importation of *Phalaenopsis* and *Cymbidium* spp. plants for planting in approved growing media from Korea.

One commenter noted that the environmental assessment does not indicate where in Korea the orchids are produced and whether such areas are more densely populated with the associated plant pests. The commenter suggested that the pest densities could impact the effectiveness of the prescribed sanitation protocols.

We acknowledge that such densities can vary; however, the greenhouses will have to employ phytosanitary procedures that correspond to the quarantine pest risk associated with the area in which the greenhouse is located and are adequate to address this risk, as determined by the NPPO of the Republic of Korea and APHIS.

One commenter stated that inspection 30 days prior to exportation is inadequate to insure the plants are free from plant pests even if the plants are inspected and certified as pest-free.

The orchids produced under this approach will have a higher standard of pest freedom at the time of import than similar plants produced under the requirements of only removing the growing media. Under the requirements of the operational work plan, the exported plants are grown with specific mitigation measures that are a condition of entry, verified by the NPPO. Only those plants that are grown under a higher level of safeguarding may enter as plants in growing media. Any visible plant pests at the time of inspection at the port of entry will result in the consignment being rejected and prohibited from entry into the United States.

One commenter expressed concern that allowing orchids in growing media from Korea would increase competition with U.S. orchid growers and force several small business and U.S. orchid markets to close their doors. The

commenter compared this action to the importation of orchids in growing media from Taiwan, which reportedly negatively impacted orchid producers in Hawaii. Furthermore, a few commenters suggested that APHIS should do more to support the U.S. orchid industry by negotiating with foreign governments to simplify and expedite the exportation process for U.S.-produced orchids.

The Taiwan market comparison is inappropriate as there was a large established market for Taiwanese orchids prior to the rule that allowed the importation of *Phalaenopsis* spp. orchids from Taiwan, which does not exist for the Republic of Korea orchid industry. From 2008 to 2014, orchid imports from the Republic of Korea averaged less than 2 percent of U.S. orchid imports and did not exceed 4 percent in any one year over this time period. Korean producers and exporters must cover their production, transportation, and marketing costs given U.S. market prices. The U.S. market's competitive environment for orchids will limit the quantities of *Phalaenopsis* and *Cymbidium* spp. plants in approved growing media imported from the Republic of Korea.

As for the impact of the rule allowing the importation of *Phalaenopsis* spp. orchids in approved growing media from Taiwan, data for individual genera of orchids are sparse, but sufficient to determine that wholesale prices for orchids of the genus *Phalaenopsis* declined from \$8.98 to \$8.10 from 1998 to 2009, a decrease of about 10 percent over 10 years, which allowed consumers to pay less for more selection and variety. Additionally, the same small businesses that purchased bare root orchids may now purchase established orchids in growing media. The option of importing plants in growing media extends the ability for small business to take advantage of lowering their production costs to provide healthy plants to the public.

In regards to improving export conditions for U.S. orchid producers, we note that importation conditions in a particular country are established by the importing country. As exporters, we can request that the conditions for importation be more equivalent to those required by the United States; however, it is the right of the importing country to establish the requirements for importation within the scope of international agreements and treaties.

One commenter stated that they would not support the importation of orchids in growing media in general until APHIS implements testing for viruses often carried by orchids. The commenter questioned the growing

practices of Korean orchid producers based on the commenters' assumption that Taiwan is exporting infected orchids in growing media to the United States due to poor growing practices.

We agree with the commenter regarding the importance of preventing the introduction of viruses associated with these commodities. We assess all pests known to be in the country, including viruses, and mitigate accordingly. The PRA identified these pests to the best of our knowledge and proposed mitigation options for them if required. We do not have data to support the commenter's claim that orchids in growing media from Taiwan are carrying viruses.

Therefore, for the reasons given in the proposed rule and this document, we are adopting the proposed rule as a final rule without change.

Executive Orders 12866 and 13771 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget. Further, because this rule is not significant, it is not a regulatory action under Executive Order 13771.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the *Regulations.gov* Web site (see **ADDRESSES** above for instructions for accessing *Regulations.gov*).

Orchids are the single largest group of potted flowering plants sold in the United States, comprising about \$266 million of the \$788 million in 2014 sales for this industry. In 2014, *Phalaenopsis* spp. comprised 57 percent of orchid sales. Although *Cymbidium* spp. are popular in other parts of the world, the quantity of potted *Cymbidium* spp. sold in the United States is small when compared to other varieties of orchids.

The proposed rule would enable Korean exporters to provide higher-valued, mature potted plants directly to wholesalers and retailers. However, such a scenario is considered unlikely, given the technical challenges and marketing costs incurred when shipping finished plants in pots. A more likely scenario is for the Republic of Korea to export immature plants as bare root plants or in approved growing media to U.S. nurseries to grow and sell as finished plants.

The United States imported more than 6,760 metric tons (MT) of live orchids valued at about \$83 million in 2014, with Taiwan supplying almost 84 percent. The Republic of Korea expects to export to the United States from 2 to 5 million *Phalaenopsis* plants and about 1 million *Cymbidium* plants per year in approved growing media. This combined number of plants, 3 to 6 million, is estimated to equal more than 2,000 MT to 4,000 MT per year. This amount seems disproportionate to the Republic of Korea's history of orchid exports worldwide, which have declined from 2,936 MT in 2010 to 806 MT in 2014. The Republic of Korea exported only 1.3 MT of bare-rooted orchid plants to the United States in 2014.

We expect the quantity of orchids in approved growing media imported from the Republic of Korea will also be limited because of the U.S. market's competitive environment. Import levels would depend on the ability of Korean producers and exporters to cover their production, transportation, and marketing costs given U.S. market prices. U.S. nurseries that purchased the Korean orchids in approved growing media would benefit from their improved quality and reduced production time in comparison to bare-rooted plants. The final rule would increase competition for U.S. producers and importers of immature *Phalaenopsis* spp. and *Cymbidium* spp. plants.

U.S. orchid producers numbered 158 in 2012. Of those producers, it is unknown how many are small entities. Given the relatively small quantity of orchid plants in approved growing media that we expect to be imported from the Republic of Korea, the Administrator of the Animal and Plant Health Inspection Service has determined that this action, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An EA and FONSI have been prepared for the final rule. The EA provides a basis for the conclusion that the importation into the continental

United States of *Phalaenopsis* spp. and *Cymbidium* spp. orchid varieties in approved growing media from the Republic of Korea, subject to a required systems approach, will not have a significant impact on the quality of the human environment. Based on the FONSI, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The EA and FONSI were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The EA and FONSI may be viewed on the *Regulations.gov* Web site (see footnote 1). Copies of the EA and FONSI are also available for public inspection at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 799-7039 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579-0454, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2483.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.37-8 is amended as follows:

■ a. In paragraph (e) introductory text, by adding a new entry for “*Cymbidium* spp. from the Republic of Korea” in alphabetical order and revising the entry for *Phalaenopsis* spp.;

■ b. By revising paragraph (e)(2)(xiii); and

■ c. By revising the OMB citation at the end of the section.

The addition and revisions read as follows:

§ 319.37-8 Growing media.

* * * * *

(e) * * *

Cymbidium spp. from the Republic of Korea

* * * * *

Phalaenopsis spp. from Taiwan, the People's Republic of China, and the Republic of Korea

* * * * *

(2) * * *

(xiii) Plants for planting of *Phalaenopsis* spp. from the People's Republic of China and *Phalaenopsis* spp. and *Cymbidium* spp. from the Republic of Korea may only be imported into the continental United States, and may not be imported or moved into Hawaii or the territories of the United States.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0579-0266, 0579-0431, 0579-0439, and 0579-0454)

Done in Washington, DC, this 8th day of September 2017.

Michael C. Gregoire,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017-19519 Filed 9-13-17; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2017-0560; Product Identifier 2016-NM-172-AD; Amendment 39-19028; AD 2017-18-19]

RIN 2120-AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A310-203, -204, -221, -222, -304, -322, -324, and -325 airplanes. This AD was prompted by reports of cracking in the drainage holes on the lower skin panel in the center wing box between frames (FR) 42 and FR46. This AD requires repetitive rotating probe inspections for cracking of the trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, and corrective actions if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 19, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 19, 2017.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: account.airworth-eas@airbus.com; Internet: <http://www.airbus.com>. You may view this referenced service information at the FAA, Transport 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-2017-0560.

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-2017-0560; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket

contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-2125; fax 425-227-1149.

SUPPLEMENTARY INFORMATION:**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A310-203, -204, -221, -222, -304, -322, -324, and -325 airplanes. The NPRM published in the *Federal Register* on June 20, 2017 (82 FR 28030) (“the NPRM”). The NPRM was prompted by reports of cracking in the drainage holes on the lower skin panel in the center wing box between frames FR42 and FR46. The NPRM proposed to require repetitive rotating probe inspections for cracking of the trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, and corrective actions if necessary. We are issuing this AD to detect and correct cracking of trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, which could result in reduced structural integrity of the wings.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016-0196, dated September 30, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all Airbus Model A310-203, -204, -221, -222, -304, -322, -324, and -325 airplanes. The MCAI states:

DGAC [Direction Générale de l’Aviation Civile] France issued AD F-1992-106-132R7 to require certain inspections and modifications which addressed JAR/FAR [Joint Aviation Requirements/Federal Aviation Regulations] 25-571 requirements, related to damage-tolerance and fatigue evaluation of structure. Following the Extended Design Service Goal activities as part of the Structure Task Group for the Airbus A310 program, EASA published AD 2007-0053, which replaced DGAC France AD F-1992-106-132R7.

After EASA issued AD 2007-0053R1, the thresholds and the intervals of Airbus Service Bulletins (SB) A310-57-2050 and A310-57-2064 were updated, prompting EASA to issue AD 2009-0057 [which corresponds to FAA AD 2011-10-06, Amendment 39-16687 (76 FR 27227, May 11, 2011)] and [EASA] AD 2007-0053 was revised (R2) accordingly. EASA AD 2009-0057 also required the accomplishment of the actions specified in Airbus SB A310-57-2048 at Revision 01.

After EASA issued AD 2009-0057, in the frame of the Widespread Fatigue Damage campaign, new analysis has indicated the need for additional work included in Revision 03 of Airbus SB A310-57-2050.

For the reason described above, this new [EASA] AD retains the requirements of EASA AD 2009-0057, which is superseded, and requires inspection and corrective actions as specified in Airbus SB A310-57-2050 Revision 04.

Required actions include a repetitive rotating probe inspection for cracking of certain holes in the stringers bottom, inner pumps, and the trellis boom; and corrective actions, *i.e.*, repair of holes where cracks are discovered.

The compliance times vary depending on airplane configuration. The earliest initial inspection compliance time is 11,400 total flight cycles or 57,300 total flight hours, whichever occurs first. The latest initial compliance time is 38,700 total flight cycles or 77,500 total flight hours, whichever occurs first. The shortest repetitive interval is 6,200 flight cycles or 31,200 flight hours, whichever occurs first.

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-2017-0560.

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 14 CFR Part 51

Airbus has issued Service Bulletin A310-57-2050, Revision 04, dated

March 13, 2015. This service information describes procedures for repetitive rotating probe inspections for cracking of the trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, and

corrective 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 8 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	84 work-hours × \$85 per hour = \$7,140	\$5,890	\$13,030	\$104,240

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

Authority for This Rulemaking

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

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

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

2017–18–19 Airbus: Amendment 39–19028; Docket No. FAA–2017–0560; Product Identifier 2016–NM–172–AD.

(a) Effective Date

This AD is effective October 19, 2017.

(b) Affected ADs

This AD affects AD 2011–10–06, Amendment 39–16687 (76 FR 27227, May 11, 2011) (“AD 2011–10–06”).

(c) Applicability

This AD applies to Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, certificated in any category, all serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracking in the drainage holes on the lower skin panel in the center wing box between frames (FR) 42 and FR46. We are issuing this AD to detect and correct cracking of trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, which could result in reduced structural integrity of the wings.

(f) Compliance

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

(g) Rotating Probe Inspections and Corrective Actions

Except as provided by paragraph (h)(1) of this AD, before exceeding the applicable threshold or grace period, whichever occurs later, as defined in paragraph 1.E., “Compliance,” of Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015, accomplish the rotating probe inspection for cracking of the trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, as applicable, and do all applicable corrective actions, as specified in, and in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015, except as required by paragraph (h)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at intervals not to exceed those defined in paragraph 1.E., “Compliance,” of Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015.

(h) Exceptions to Service Information

(1) Where Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015, specifies a grace period “after receipt of the Service Bulletin without exceeding previous Service Bulletin revision values,” this AD requires compliance within the specified grace period after the effective date of this AD.

(2) Where Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015, specifies to contact Airbus for appropriate action, and specifies that action as “RC” (Required for Compliance): Before further flight, accomplish corrective actions in

accordance with the procedures specified in paragraph (l)(2) of this AD.

(i) No Terminating Action for Inspections

Accomplishing corrective actions on an airplane as required by paragraph (g) or (h)(2) of this AD does not constitute terminating action for the repetitive actions required by paragraph (g) of this AD.

(j) Terminating Action

Accomplishment of the initial inspection required by paragraph (g) of this AD constitutes terminating action for the actions required by paragraph (h) of AD 2011–10–06.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information specified in Airbus Service Bulletin A310–57–2050, Revision 03, dated December 19, 2014.

(l) 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 (m)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC)*: Except as required by paragraph (h)(2) of this AD: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0196, dated September 30, 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–2017–0560.

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

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

(n) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: account.airworth-eas@airbus.com; Internet: <http://www.airbus.com>.

(4) You may view this service information at the FAA, Transport 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 31, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–19042 Filed 9–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–0451; Product Identifier 2013–NM–253–AD; Amendment 39–19026; AD 2017–18–17]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2004–23–20, which applied to certain Airbus Model A300, A300 B4–600, and A300 B4–600R series airplanes; and Model A300 F4–605R and A300 C4–605R Variant F airplanes. AD 2004–23–20 required, for certain airplanes, repetitive inspections for cracking around certain attachment holes, installation of new fasteners for certain airplanes, and follow-on corrective actions if necessary. AD 2004–23–20 also required modifying certain fuselage frames, which terminated certain repetitive inspections. This new AD reduces certain compliance times, expands the applicability, and requires an additional repair on certain modified airplanes. This AD was prompted by a report indicating that the material used to manufacture the upper frame feet was changed and negatively affected the fatigue life of the frame feet. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 19, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 19, 2017.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email account.airworth-eas@airbus.com; Internet <http://www.airbus.com>. You may view this referenced service information at the FAA, Transport 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–2016–0451.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-0451; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-2125; fax 425-227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2004-23-20, Amendment 39-13875 (69 FR 68779, November 26, 2004) (“AD 2004-23-20”). AD 2004-23-20 applied to certain Airbus Model A300 B2, A300 B4, A300 B4-600, and A300 B4-600R series airplanes; and Model A300 F4-605R and A300 C4-605R Variant F airplanes. The SNPRM published in the **Federal Register** on June 15, 2017 (82 FR 27444) (“the SNPRM”). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on February 1, 2016 (81 FR 5056) (“the NPRM”). The NPRM was prompted by a report indicating that the material used to manufacture the upper frame feet was changed and negatively affected the fatigue life of the frame feet. The NPRM proposed to reduce the compliance times for the initial inspection and the inspection intervals. The NPRM also proposed to expand the applicability and require an additional repair on certain airplanes that have been modified. The SNPRM proposed to reduce the compliance times, require an additional modification, and omit the requirement for the repetitive inspections. We are issuing this AD to prevent cracking of the center section of the fuselage, which could result in a ruptured frame foot and reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent

for the Member States of the European Union, has issued EASA AD 2016-0249, dated December 14, 2016; corrected January 10, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”); to correct an unsafe condition for all Airbus Model A300 B4-603, A300 B4-620, A300 B4-622, A300 B4-605R, A300 B4-622R, A300 F4-605R, A300 F4-622R, and A300 C4-605R Variant F airplanes. The MCAI states:

During an inspection in accordance with Airworthiness Limitation Item (ALI) 53-15-54 on an A300-600 aeroplane, Frames (FR) 43, FR44, FR45 and FR46 were found cracked between stringer (STGR) 24 and STGR30 on the aeroplane right hand side. FR45 was also found cracked on the aeroplane left hand side.

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

To address this potential unsafe condition and improve the fatigue life of the upper frame feet fittings, Airbus issued Service Bulletin (SB) A300-53-6125 to provide instructions for expansion of the most sensitive fastener holes between FR41 and FR46. DGAC [Direction Générale de l'Aviation Civile] France issued AD F-2004-002 (EASA approval 2003-2108) [which corresponds to FAA AD 2004-23-20] to require the structural modification defined in SB A300-53-6125 Revision 03 (Airbus modification 12168).

[French] AD F-2004-002 was subsequently superseded by EASA AD 2013-0295 to amend the inspection programme in this area as provided in SB A300-53-6122 (which is now obsolete and replaced by ALI task 531558, published in the [Airworthiness Limitation Section] ALS Part 2 Revision 01 dated 07 August 2015).

Since EASA AD 2013-0295 was issued, a new investigation was conducted in the frame of the Widespread Fatigue Damage study. Airbus revised the thresholds for the accomplishment of the instructions defined in SB A300-53-6125 and issued SB A300-53-6178 to provide modification instructions to improve the fatigue life of upper frame feet fittings on aeroplane(s) on which Airbus modification (mod) 12168 or Airbus SB A300-53-6125 was embodied.

For the reason described above, this [EASA] AD retains some requirements of EASA AD 2013-0295, which is superseded, and requires modification of the upper frame feet fittings from FR41 to FR46 [repetitive inspections are not retained].

This [EASA] AD is republished to correct a typographical error in the compliance time * * *.

You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-0451.

Comments

We gave the public the opportunity to participate in developing this AD. We

received no comments on the SNPRM or on the determination of the cost to the public.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A300-53-6125, Revision 04, dated March 17, 2015; and Service Bulletin A300-53-6178, dated March 17, 2015. The service information describes procedures for the modification of certain upper frame feet fittings. These documents are distinct since they apply to airplanes in different configurations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 65 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

The actions that were required by AD 2004-23-20 and retained in this AD take about 90 work-hours per product, at an average labor rate of \$85 per work-hour. Required parts cost about \$4,000 per product. Based on these figures, the estimated cost of the actions that were required by AD 2004-23-20 is \$11,650 per product.

We also estimate that it will take up to 109 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is \$85 per work-hour. Required parts will cost up to \$6,070 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be up to \$996,775, or up to \$15,335 per product.

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 removing Airworthiness Directive (AD) 2004–23–20, Amendment 39–13875 (69 FR 68779, November 26, 2004), and adding the following new AD:

2017–18–17 Airbus: Amendment 39–19026; Docket No. FAA–2016–0451; Product Identifier 2013–NM–253–AD.

(a) Effective Date

This AD is effective October 19, 2017.

(b) Affected ADs

This AD replaces AD 2004–23–20, Amendment 39–13875 (69 FR 68779, November 26, 2004) (“AD 2004–23–20”).

(c) Applicability

This AD applies to Airbus Model A300 B4–603, A300 B4–620, A300 B4–622, A300 B4–605R, A300 B4–622R, A300 F4–605R, A300 F4–622R, and A300 C4–605R Variant F airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by a report indicating that the material used to manufacture the upper frame feet was changed and negatively affected the fatigue life of the frame feet. We are issuing this AD to prevent cracking of the center section of the fuselage, which could result in a ruptured frame foot and reduced structural integrity of the airplane.

(f) Compliance

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

(g) Modification of the Upper Frame Feet Fittings

(1) Except for airplanes identified in table 2 to paragraphs (g)(1) and (g)(2) of this AD: At the times specified in table 1 to paragraph (g)(1) of this AD, depending on the average flight time (AFT), as defined in paragraph (i) of this AD, modify the upper frame feet fittings, including doing all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6125, Revision 04, dated March 17, 2015 (“SB A300–53–6125, Revision 04”). Do all applicable related investigative and corrective actions before further flight. Where Airbus SB A300–53–6125, Revision 04, specifies to contact Airbus for appropriate action, and specifies that action as “RC” (Required for Compliance): Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (l)(2) of this AD.

TABLE 1 TO PARAGRAPH (g)(1) OF THIS AD—MODIFICATION SB A300–53–6125, REVISION 04

Airplane usage	Initial compliance time (flight cycles or flight hours, whichever occurs first since first flight)
AFT greater than 1.5	Within 10,200 flight cycles or 22,100 flight hours.
AFT equal to or less than 1.5	Within 11,000 flight cycles or 16,600 flight hours.

TABLE 2 TO PARAGRAPHS (g)(1) AND (g)(2) OF THIS AD—MODIFICATION SB A300–53–6178

Airplane configuration	Initial compliance time
Post-modification 12168	Within 27,100 flight cycles or 47,300 flight hours since the airplane’s first flight, whichever occurs first.
Post-SB A300–53–6125	Within 27,100 flight cycles or 47,300 flight hours after embodiment of SB A300–53–6125, whichever occurs first.

(2) For airplanes identified in table 2 to paragraphs (g)(1) and (g)(2) of this AD: At the applicable compliance time specified in table 2 to paragraphs (g)(1) and (g)(2) of this AD,

modify the upper frame feet fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6178, dated March 17, 2015. Where

Airbus Service Bulletin A300–53–6178, dated March 17, 2015, specifies to contact Airbus for appropriate action, and specifies that action as “RC”: Before further flight,

accomplish corrective actions in accordance with the procedures specified in paragraph (l)(2) of this AD.

(h) Additional Post-Modification Actions

Prior to exceeding 24,100 total flight cycles or 42,000 total flight hours, whichever occurs first after doing the modification required by paragraph (g)(2) of this AD: Contact the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA); for instructions to do additional actions, and do those actions at the compliance times stated therein.

(i) Definition of AFT

For the purpose of this AD, to establish the applicable AFT for the actions required by paragraph (g)(1) of this AD, divide the total accumulated flight hours counted from take-off to touch-down by the total accumulated flight cycles as of the effective date of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for the modification required by paragraph (g)(1) of this AD, if the modification was performed before the effective date of this AD using the service information specified in paragraph (j)(1), (j)(2), (j)(3), or (j)(4) of this AD.

(1) Airbus Service Bulletin A300-53-6125, dated November 8, 2000, which is not incorporated by reference in this AD.

(2) Airbus Service Bulletin A300-53-6125, Revision 01, dated June 13, 2003, which was incorporated by reference in AD 2004-23-20.

(3) Airbus Service Bulletin A300-53-6125, Revision 02, dated February 25, 2005, which is not incorporated by reference in this AD.

(4) Airbus Service Bulletin A300-53-6125, Revision 03, dated September 13, 2011, which is not incorporated by reference in this AD.

(k) Exempt Airplanes

For airplanes on which Airbus Modification 12168 has been embodied in production: The modification required by paragraph (g)(1) of this AD is not required by this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International 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 (m)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC)*: Except as required by paragraphs (g)(1) and (g)(2) of this AD: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016-0249, dated December 14, 2016; corrected January 10, 2017; for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-0451.

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

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

(n) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A300-53-6125, Revision 04, dated March 17, 2015.

(ii) Airbus Service Bulletin A300-53-6178, dated March 17, 2015.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email account.airworth-eas@airbus.com; Internet <http://www.airbus.com>.

(4) You may view this service information at the FAA, Transport 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 29, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017-19303 Filed 9-13-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0524; Product Identifier 2016-NM-122-AD; Amendment 39-19034; AD 2017-19-04]

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 900EX airplanes. This AD was prompted by a determination that new or more restrictive maintenance requirements and/or airworthiness limitations are necessary. This AD requires revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and/or airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 19, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 19, 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-2017-0524.

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-2017-0524; 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 900EX airplanes. The NPRM published in the **Federal Register** on June 6, 2017 (82 FR 25986) (“the NPRM”).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016-0128, dated June 23,

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 900EX airplanes. The MCAI states:

The airworthiness limitations and maintenance requirements for the DA [Dassault Aviation] Falcon 900EX type design are included in Aircraft Maintenance Manual (AMM) chapter 5-40 and are approved by the European Aviation Safety Agency (EASA). These instructions have been identified as mandatory for continued airworthiness.

Failure to accomplish these instructions could result in an unsafe condition.

Consequently, EASA issued AD 2013-0051 [which corresponds to AD 2014-16-26, Amendment 39-17950 (79 FR 51077, August 27, 2014) (“2014-16-26”)] to require accomplishment of the maintenance tasks, and implementation of the airworthiness limitations, as specified in DA Falcon 900EX AMM chapter 5-40 (DGT 113874) at revision 12.

Since that [EASA] AD was issued, DA issued revision 14 of Falcon 900EX AMM chapter 5-40 (DGT 113874) (hereafter referred to as “the ALS” in this AD), which contains new or more restrictive maintenance requirements and/or airworthiness limitations. The ALS introduces, among others, the following new tasks:

- Task 53-50-00-220-803 “Detailed inspection of the baggage compartment”;
- Task 53-50-00-220-807 “Detailed inspection of the upper part of frame 30.”

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2013-0051, which is superseded, and requires accomplishment of the actions specified in the ALS.

You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0524.

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 Chapter 5-40, Airworthiness Limitations, Revision 14, dated November 2015, of the FALCON 900EX Maintenance Manual. The service information describes procedures, maintenance tasks, and airworthiness limitations specified in the Airworthiness Limitations section of the AMM. 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 70 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
Maintenance or inspection program revision ..	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$5,950

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):

2017–19–04 Dassault Aviation:

Amendment 39–19034; Docket No. FAA–2017–0524; Product Identifier 2016–NM–122–AD.

(a) Effective Date

This AD is effective October 19, 2017.

(b) Affected ADs

This AD affects AD 2014–16–26, Amendment 39–17950 (79 FR 51077, August 27, 2014) (“AD 2014–16–26”).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 900EX airplanes, certificated in any category, serial numbers 1 through 96 inclusive, and serial numbers 98 through 119 inclusive, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive maintenance requirements and/or airworthiness limitations are necessary. We are issuing this AD to prevent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, Revision 14, dated November 2015, of the FALCON 900EX Maintenance Manual. The initial compliance time for accomplishing the actions specified in Chapter 5–40, Airworthiness Limitations, Revision 14, dated November 2015, of the FALCON 900EX Maintenance Manual, is within the applicable times specified in the maintenance manual, or 90 days after the effective date of this AD, whichever occurs later, except as provided by paragraphs (g)(1) through (g)(4) of this AD.

(1) The term “LDG” in the “First Inspection” column of any table in the service information means total airplane landings.

(2) The term “FH” in the “First Inspection” column of any table in the service information means total flight hours.

(3) The term “FC” in the “First Inspection” column of any table in the service information means total flight cycles.

(4) The term “M” in the “First Inspection” column of any table in the service information means months.

(h) No Alternative Actions and Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action

Accomplishing the actions required by paragraph (g) of this AD terminates all the requirements of AD 2014–16–26.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. 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 European Aviation Safety Agency (EASA); or Dassault Aviation’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0128, dated June 23, 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–2017–0524.

(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.

(l) Material Incorporated by Reference

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

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

(i) Chapter 5–40, Airworthiness Limitations, Revision 14, dated November 2015, of the FALCON 900EX Maintenance Manual.

(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 31, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–19449 Filed 9–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2017-0525; Product Identifier 2016-NM-121-AD; Amendment 39-19033; AD 2017-19-03]

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 MYSTÈRE-FALCON 900 airplanes. This AD was prompted by a determination that new or more restrictive maintenance requirements and/or airworthiness limitations are necessary. This AD requires revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and/or airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 19, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 19, 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-2017-0525.

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-2017-0525; 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 MYSTÈRE-FALCON 900 airplanes. The NPRM published in the **Federal Register** on June 6, 2017 (82 FR 25980) (“the NPRM”).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016-0127, dated June 23, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all Dassault Aviation Model MYSTÈRE-FALCON 900 airplanes. The MCAI states:

The airworthiness limitations and maintenance requirements for the DA [Dassault Aviation] Mystère-Falcon 900 type design are included in Aircraft Maintenance Manual (AMM) chapter 5-40 and are approved by the European Aviation Safety Agency (EASA). These instructions have been identified as mandatory for continued airworthiness.

Failure to accomplish these instructions could result in an unsafe condition.

Consequently, EASA issued AD 2013-0053 [which corresponds with AD 2016-01-16, Amendment 39-18376 (81 FR 3320, January 21, 2016) (“AD 2016-01-16”)] to require accomplishment of the maintenance tasks, and implementation of the airworthiness limitations, as specified in DA Mystère-Falcon 900 AMM chapter 5-40 (DGT 113873) at revision 20.

Since that [EASA] AD was issued, DA issued revision 22 of Mystère-Falcon 900 AMM chapter 5-40 (DGT 113873) (hereafter referred to as “the ALS” in this [EASA] AD), which contains new or more restrictive maintenance requirements and/or airworthiness limitations. The ALS

introduces, among others, the following new tasks:

- Task 53-40-07-280-803 “Special detailed inspection of the repaired areas on centre-wing lower panel”;
- Task 53-50-00-220-803 “Detailed inspection of the baggage compartment”;
- Task 53-50-00-220-807 “Detailed inspection of the upper part of frame 30.”

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2013-0053, which is superseded, and requires accomplishment of the actions specified in the ALS.

You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0525.

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 14 CFR Part 51

Dassault Aviation has issued Chapter 5-40, Airworthiness Limitations, Revision 22, dated December 2015, of the Dassault Aviation Falcon 900 Maintenance Manual. This service information describes procedures, maintenance tasks, and airworthiness limitations specified in the Airworthiness Limitations Section (ALS) of the AMM. 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 65 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
Maintenance or inspection program revision ..	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$5,525

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):

2017–19–03 Dassault Aviation:
Amendment 39–19033; Docket No. FAA–2017–0525; Product Identifier 2016–NM–121–AD.

(a) Effective Date

This AD is effective October 19, 2017.

(b) Affected ADs

This AD affects AD 2016–01–16, Amendment 39–18376 (81 FR 3320, January 21, 2016) (“AD 2016–01–16”).

(c) Applicability

This AD applies to all Dassault Aviation Model MYSTERE–FALCON 900 airplanes, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before December 1, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive maintenance requirements and/or airworthiness limitations are necessary. We are issuing this AD to prevent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, Revision 22, dated December 2015, of the Dassault Aviation Falcon 900 Maintenance Manual. The initial compliance time for accomplishing the actions specified in Chapter 5–40, Airworthiness Limitations, Revision 22, dated December 2015, of the Dassault Aviation Falcon 900 Maintenance Manual, is within the applicable times specified in the maintenance manual, or within 90 days after the effective date of this AD, whichever occurs later, except as provided by paragraphs (g)(1) through (g)(4) of this AD.

(1) The term “LDG” in the “First Inspection” column of any table in the service information means total airplane landings.

(2) The term “FH” in the “First Inspection” column of any table in the service information means total flight hours.

(3) The term “FC” in the “First Inspection” column of any table in the service information means total flight cycles.

(4) The term “M” in the “First Inspection” column of any table in the service information means months.

(h) No Alternative Actions and Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action

Accomplishing the actions required by paragraph (g) of this AD terminates all requirements of AD 2016–01–16.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. 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 European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016-0127, dated June 23, 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-2017-0525.

(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.

(l) Material Incorporated by Reference

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

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

(i) Chapter 5-40, Airworthiness Limitations, Revision 22, dated December 2015, of the Dassault Aviation Falcon 900 Maintenance Manual.

(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 31, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017-19302 Filed 9-13-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0533; Product Identifier 2016-NM-156-AD; Amendment 39-19024; AD 2017-18-15]

RIN 2120-AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A300 B4-600R and Model A300 F4-600R series airplanes; Model A300 B4-603, B4-622, and C4-605R Variant F airplanes; and Model A310-203, -221, -222, -304, -322, -324, and -325 airplanes. This AD was prompted by an evaluation by the design approval holder indicating that a section of the fuselage structure above the forward cargo door is subject to widespread fatigue damage (WFD). This AD requires an inspection for cracks of the fastener and tooling holes at certain locations and a check of the diameter of the holes, and repair or modification of the affected fuselage structure if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 19, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 19, 2017.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email account.airworth-eas@airbus.com; Internet <http://www.airbus.com>. You may view this referenced service information at the FAA, Transport 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-2017-0533.

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-

0533; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-2125; fax 425-227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A300 B4-600R and Model A300 F4-600R series airplanes; Model A300 B4-603, B4-622, and C4-605R Variant F airplanes; and Model A310-203, -221, -222, -304, -322, -324, and -325 airplanes. The NPRM published in the **Federal Register** on June 12, 2017 (82 FR 26874) (“the NPRM”). The NPRM was prompted by an evaluation by the design approval holder indicating that a section of the fuselage structure above the forward cargo door is subject to WFD. The NPRM proposed to require an inspection for cracks of the fastener and tooling holes at certain locations and a check of the diameter of the holes, and repair or modification of the affected fuselage structure if necessary. We are issuing this AD to prevent reduced structural integrity of these airplanes due to the failure of certain structural components.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016-0178, dated September 12, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all Airbus Model A300 B4-600R and Model A300 F4-600R series airplanes; Model A300 B4-603, B4-622, and C4-605R Variant F airplanes; and Model A310-203, -221, -222, -304, -322, -324, and -325 airplanes. The MCAI states:

In the frame of the Widespread Fatigue Damage (WFD) analysis, some structural

areas were identified as requiring embodiment of a structural modification.

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

To address this unsafe condition, Airbus issued Service Bulletin (SB) A310-53-2145 and SB A300-53-6187 to provide instructions for structural reinforcement of the fuselage frames (FR) between FR20 Right Hand side (RH) and FR25 RH and the frame couplings between stringer (STGR) 20 RH and STGR23 RH, hereafter collectively referred to as ‘the affected fuselage structure’ in this [EASA] AD.

For the reason described above, this [EASA] AD requires accomplishment of a one-time special detailed inspection (SDI) of the fastener and tooling holes, and modification of the affected fuselage structure.

The required actions include a rototest inspection for cracks of the fastener and tooling holes at certain locations and a check of the diameter of the holes, and repair or modification of the affected fuselage structure if necessary. 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-2017-0533.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information.

- Airbus Service Bulletin A300-53-6187, Revision 00, dated May 31, 2016. This service information describes procedures for a rototest inspection for cracks of the fastener and tooling holes at certain locations, a check of the diameter of the holes, repair, and

modification of the affected fuselage structure by reinforcing the frames between right hand (RH) frame (FR) 20 RH and FR25 RH, or FR21 RH and FR25 RH, depending on the configuration; and reinforcing the frame couplings between stringer (STGR) 20 RH and STGR23 RH.

- Airbus Service Bulletin A310-53-2145, Revision 00, dated May 31, 2016. This service information describes procedures for a rototest inspection for cracks of the fastener and tooling holes at certain locations, a check of the diameter of the holes, repair, and modification of the affected fuselage structure by reinforcing the frames between right hand FR20 RH and FR25 RH; and reinforcing the frame couplings between STGR20 RH and STGR23 RH.

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 132 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, check, repair, and modification	45 work-hours × \$85 per hour = \$3,825	\$2,360	\$6,185	\$816,420

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):

2017–18–15 Airbus: Amendment 39–18024; Docket No. FAA–2017–0533; Product Identifier 2016–NM–156–AD.

(a) Effective Date

This AD is effective October 19, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus airplanes identified in paragraphs (c)(1) through (c)(5) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Model A300 B4–603 and A300 B4–622 airplanes.

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

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

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

(5) Model A310–203, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by an evaluation by the design approval holder indicating that a section of the fuselage structure above the forward cargo door is subject to widespread fatigue damage. We are issuing this AD to prevent reduced structural integrity of these airplanes due to the failure of certain structural components.

(f) Compliance

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

(g) Check and Rototest Inspection of Affected Fastener and Tooling Holes

Before exceeding 42,500 flight cycles since the first flight of the airplane, do a check of the diameter of the fastener holes and tooling holes and a rototest inspection for cracks of all holes of removed fasteners and the tooling holes at the locations specified in, and in accordance with, the Accomplishment Instructions of Airbus Service Bulletin A300–53–6187, Revision 00, dated May 31, 2016; or Airbus Service Bulletin A310–53–2145, Revision 00, dated May 31, 2016; as applicable.

(h) Repair

If any condition specified in paragraph (h)(1) or (h)(2) of this AD is found, prior to further flight, repair in accordance with a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). Concurrently with the repair, unless the approved repair instructions specify otherwise, modify the affected structure, in

accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6187, Revision 00, dated May 31, 2016; or Airbus Service Bulletin A310–53–2145, Revision 00, dated May 31, 2016; as applicable.

(1) Any crack is found during the rototest inspection required by paragraph (g) of this AD.

(2) Any hole diameter greater than or equal to the maximum starting hole diameter specified in the Accomplishment Instructions of Airbus Service Bulletin A300–53–6187, Revision 00, dated May 31, 2016; or Airbus Service Bulletin A310–53–2145, Revision 00, dated May 31, 2016; as applicable, is found during the check required by paragraph (g) of this AD.

(i) Modification

If, during the actions required by paragraph (g) of this AD, no crack is found and the hole diameter is less than the maximum starting hole diameter specified in the Accomplishment Instructions of Airbus Service Bulletin A300–53–6187, Revision 00, dated May 31, 2016; or Airbus Service Bulletin A310–53–2145, Revision 00, dated May 31, 2016; as applicable: Before further flight, modify the affected fuselage structure, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6187, Revision 00, dated May 31, 2016; or Airbus Service Bulletin A310–53–2145, Revision 00, dated May 31, 2016; as applicable.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. 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 EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted

methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0178, dated September 12, 2016, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2017–0533.

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

(l) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A300–53–6187, Revision 00, dated May 31, 2016.

(ii) Airbus Service Bulletin A310–53–2145, Revision 00, dated May 31, 2016.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email account.airworth-eas@airbus.com; Internet <http://www.airbus.com>.

(4) You may view this service information at the FAA, Transport 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 29, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–19043 Filed 9–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2016-9184; Product Identifier 2016-NM-060-AD; Amendment 39-19032; AD 2017-19-02]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 727 airplanes. This AD was prompted by analysis of the cam support assemblies of the main cargo door (MCD) that indicated the repetitive high frequency eddy current (HFEC) inspections required by the existing maintenance program are not adequate to detect cracks before two adjacent cam support assemblies of the MCD could fail. This AD requires repetitive ultrasonic inspections for cracking of the cam support assemblies of the MCD and replacement if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 19, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 19, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister 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-2016-9184.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-9184; 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:

Chandra Ramdoss, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712-4137; phone: 562-627-5239; fax: 562-627-5210; email: chandraduth.ramdoss@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 727 airplanes. The NPRM published in the *Federal Register* on October 4, 2016 (81 FR 68373) (“the NPRM”). The NPRM was prompted by analysis of the cam support assemblies of the MCD that indicated the repetitive HFEC inspections required by the existing maintenance program are not adequate to detect cracks before two adjacent cam support assemblies of the MCD could fail. The NPRM proposed to require repetitive ultrasonic inspections for cracking of the cam support assemblies of the MCD and replacement if necessary. We are issuing this AD to detect and correct cracking of the cam support assemblies of the MCD. Such cracking could result in reduced structural integrity of the MCD and consequent rapid decompression of the airplane.

Comments

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

Request To Revise Applicability

Boeing stated that Boeing Alert Service Bulletin 727-52A0151, dated February 12, 2016, affects only Boeing factory and Boeing converted freighters, but the proposed AD extends the applicability to all Model 727 airplanes, including the ones that have been converted by non-Boeing STCs.

We infer that the commenter is requesting that the actions of the service information only be required for Model 727 airplanes identified in the Effectivity paragraph of Boeing Alert

Service Bulletin 727-52A0151, dated February 12, 2016. We agree that the applicability of the NPRM includes some airplanes that do not have the identified unsafe condition. The unsafe condition does not apply to Model 727 airplanes that do not have a MCD. Therefore, we have revised this AD to apply to Model 727 series airplanes equipped with a MCD.

We disagree that the AD applicability should be limited to airplanes identified in the Effectivity paragraph of Boeing Alert Service Bulletin 727-52A0151, dated February 12, 2016, which only identifies Boeing factory and Boeing-converted freighters. Cam support assemblies having an affected part number, as specified in paragraphs (g) and (h) of this AD, could be installed during original aircraft manufacture, or during passenger to freighter modification. We expect that the actions specified in Boeing Alert Service Bulletin 727-52A0151, dated February 12, 2016, can be accomplished on airplanes that are not identified in that service information. However, if an operator cannot accomplish the required actions in the service information due to the airplane configuration, or prefers to use different service information that is specific to their design, they can request an alternative method of compliance (AMOC) in accordance with paragraph (j) of this AD.

Request To Supersede AD 80-08-10 R1, Amendment 39-3830 (45 FR 46343, July 10, 1980) (“AD 80-08-10 R1”)

Boeing requested that we revise the NPRM to supersede AD 80-08-10 R1. Boeing stated that AD 80-08-10 R1 mandates MCD cam support assemblies having part numbers (P/Ns) 69-23588-1 and 69-23588-2 as specified in Boeing Service Bulletin 727-52A124. Boeing explained that the NPRM is adding cam support assemblies having P/Ns 69-23588-1 and 69-23588-2 to the list in Boeing Alert Service Bulletin 727-52A0151, dated February 12, 2016. Boeing asserted that the addition of these components to the list of affected parts would mean that the operators have to perform high frequency eddy current inspection of cam support assemblies having P/Ns 69-23588-1 and 69-23588-2 as specified in AD 80-08-10 R1 and perform ultrasonic inspection of the same components as specified in the NPRM. Boeing explained that cracking initiates at the bottom of the lubrication hole inside the cam support fitting lug and the cracking is not visible until it breaks to the surface of the lug. Therefore, the subsurface detection capability of the ultrasonic inspection provides a more reliable inspection.

We partially agree with Boeing’s request to supersede the inspections which are required by AD 80–08–10 R1. These inspections will overlap with the newly mandated repetitive inspections. We disagree with the request to revise this AD to supersede AD 80–08–10 R1. Instead, we have added paragraph (i) to this AD to state that completion of the initial inspection and all applicable replacements required by paragraph (h) of this AD terminates all requirements of AD 80–08–10 R1, for that airplane only. We have redesignated subsequent paragraphs accordingly.

Request To Revise Compliance Time

Boeing requested that we revise paragraph (g)(1) of the proposed AD from “before the accumulation of 18,000 total flight cycles” to “before the accumulation of 18,000 door flight cycles. If the door flight cycles are not known, use total airplane flight cycles.” Boeing explained that this change would provide relief for operators that have converted freighters by delaying the required inspection for the MCDs

that have been in service less than 18,000 total door flight cycles, but are installed on the airplanes that have more than 18,000 total airframe flight cycles.

We agree with Boeing’s request. For the airplanes that have been converted to freighters, the compliance time for the initial inspection should be based on the number of cycles that the cam support assembly has been in service. We have revised paragraph (g)(1) of this AD accordingly.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

- Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 727–52A0151, dated February 12, 2016. This service information describes procedures for an ultrasonic inspection of the cam support assemblies of the MCD for cracking, and replacement if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

We estimate that this AD will affect 45 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	\$22,950 per inspection cycle.

We estimate the following costs to do any necessary replacements that would

be required based on the results of the inspection. We have no way of

determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	60 work-hours × \$85 per hour = \$5,100	\$14,107	\$19,207

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):

2017–19–02 The Boeing Company:

Amendment 39–19032; Docket No. FAA–2016–9184; Product Identifier 2016–NM–060–AD.

(a) Effective Date

This AD is effective October 19, 2017.

(b) Affected ADs

This AD affects AD 80–08–10 R1, Amendment 39–3830 (45 FR 46343, July 10, 1980).

(c) Applicability

This AD applies to The Boeing Company Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category, equipped with a main cargo door (MCD).

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by analysis of the cam support assemblies of the MCD that indicated the repetitive high frequency eddy current (HFEC) inspections required by the existing maintenance program are not adequate to detect cracks before two adjacent cam support assemblies of the MCD could fail. We are issuing this AD to detect and correct cracking of the cam support assemblies of the MCD. Such cracking could result in reduced structural integrity of the MCD and consequent rapid decompression of the airplane.

(f) Compliance

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

(g) Inspection To Determine Part Numbers

At the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD: Inspect the cam support assemblies of the MCD to determine whether part number (P/N) 69–23588–1, 69–23588–2, 69–23588–5, 69–23588–6, 69–23588–9, or 69–23588–10 is installed. A review of airplane maintenance

records is acceptable in lieu of this inspection if the part number(s) of the cam support assemblies of the MCD can be conclusively determined from that review.

(1) Before the accumulation of 18,000 total flight cycles since installation of the MCD. If the flight cycles since installation of the MCD are not known, use total airplane flight cycles.

(2) Within 1,771 flight cycles or 27 months after the effective date of this AD, whichever occurs later.

(h) Repetitive Inspections of the Cam Support Assemblies of the Main Cargo Door and Corrective Actions

If, during any inspection required by paragraph (g) of this AD, any cam support assembly of the MCD having P/N 69–23588–1, 69–23588–2, 69–23588–5, 69–23588–6, 69–23588–9, or 69–23588–10 is determined to be installed: At the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD, do an ultrasonic inspection to detect cracking of the affected cam support assemblies of the MCD; and do all applicable replacements; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 727–52A0151, dated February 12, 2016. Do all applicable replacements before further flight. Repeat the inspections thereafter at the applicable time specified in paragraph 1.E., “Compliance,” of Boeing Alert Service Bulletin 727–52A0151, dated February 12, 2016.

(i) Terminating Action for AD 80–08–10 R1, Amendment 39–3830 (45 FR 46343, July 10, 1980)

Accomplishment of the initial inspection and all applicable replacements required by paragraph (h) of this AD terminates all requirements of AD 80–08–10 R1, Amendment 39–3830 (45 FR 46343, July 10, 1980), for that airplane only.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO 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 (j)(4)(i) and (j)(4)(ii) of this AD apply.

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

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

(k) Related Information

For more information about this AD, contact Chandra Ramdoss, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5239; fax: 562–627–5210; email: chandraduth.ramdoss@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 727–52A0151, dated February 12, 2016.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister 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 31, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–19441 Filed 9–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE**28 CFR Part 16**

[CPCLO Order No. 008–2017]

Privacy Act of 1974; Implementation**AGENCY:** United States Department of Justice.**ACTION:** Final rule.

SUMMARY: The United States Department of Justice (DOJ or Department) is issuing a final rule to amend its Privacy Act exemption regulations for the system of records titled, “DOJ Insider Threat Program Records,” JUSTICE/DOJ–018. Specifically, DOJ is exempting the records maintained in JUSTICE/DOJ–018 from one or more provisions of the Privacy Act. The listed exemptions are necessary to avoid interference with efforts to detect, deter, and/or mitigate insider threats. This document addresses public comments on the proposed rule and codifies the claimed exemptions.

DATES: This final rule is effective October 16, 2017.

FOR FURTHER INFORMATION CONTACT:

Laurence Reed, DOJ Insider Threat Program Manager, United States Department of Justice, Insider Threat Prevention and Detection Program, 145 N Street NE., Washington, DC 20002, 202–357–0165, itp@usdoj.gov.

SUPPLEMENTARY INFORMATION:**Background**

Executive Order 13587, *Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information* (Oct. 7, 2011), requires the development of an executive branch program for the deterrence, detection, and mitigation of insider threats. The Presidential Memorandum, *National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs* (Nov. 21, 2012), provides direction to executive branch departments on how to develop insider threat programs. The Presidential Memorandum states that an insider threat is the threat that any person with authorized access to any United States Government resource including personnel, facilities, information, equipment, networks or systems, will use her/his authorized access, wittingly or unwittingly, to do harm to the security of the United States. This threat can include damage to the United States through espionage, terrorism, unauthorized disclosure of national security information, or through the loss or degradation of departmental resources or capabilities.

In accordance with the Privacy Act of 1974 (Privacy Act), on June 5, 2017, DOJ issued a System of Records Notice (SORN) in the *Federal Register* at 82 FR 25812 (June 5, 2017), and a Notice of Proposed Rulemaking (NPRM) at 82 FR 25751 (June 5, 2017), for the “DOJ Insider Threat Program Records,” JUSTICE/DOJ–018. The system establishes certain Department-wide capabilities to detect, deter, and mitigate insider threats, and will be used to facilitate management of insider threat inquiries and activities associated with inquiries and referrals, identify potential threats to DOJ resources and information assets, track referrals of potential insider threats to internal and external partners, and provide statistical reports and meet other insider threat reporting requirements. The system includes information provided by individuals covered by this system and by DOJ. It may include information lawfully obtained by the DOJ from any United States Government entity, from other domestic or foreign government organizations, or from private entities, which is necessary to identify, analyze, or resolve insider threat matters. After consideration of public comments, exemptions necessary to safeguard this information and avoid interference with the responsibilities of DOJ to detect, deter, and/or mitigate insider threats are codified in this final rule.

Response to Public Comments

In its “DOJ Insider Threat Program Records” SORN and NPRM, published on June 5, 2017, the Department invited public comment. The period for public comment closed on July 5, 2017. The Department received one comment, which addressed elements of both the SORN and the NPRM. The Department has closely reviewed this comment and the following discussion responds to the comment.

The comment primarily focused on the scope of information collected by the system of records, the risk of compromise of such information, and the disclosures described in the SORN’s “routine uses.” As to the information collected by the system, the Department has determined that such information is necessary to create and maintain an effective insider threat program that complies with presidential mandates and federal law. The comment requests on page 7 that DOJ “maintain only records that are relevant and necessary to detecting and preventing inside threats,” yet correctly points out on page 3 that the categories of records in the system include “relevant” counterintelligence and security databases and files, “relevant

Unclassified and Classified network information,” and “relevant Human Resources” databases and files. DOJ is a law enforcement agency. While it is not always possible to know in advance what information is relevant and necessary for law enforcement and intelligence purposes, as explained further below, DOJ requires its employees and agents to take reasonable steps designed to ensure collection of relevant and necessary information.

As to the risk of compromise, DOJ understands the increase in data breaches across the public and private sectors. The Department has established appropriate administrative, technical and physical safeguards designed to ensure the security and confidentiality of records and to protect against anticipated threats or hazards to their security or integrity. The Department has implemented, and regularly assesses and works to strengthen, privacy and security controls required under federal law, regulations and policies, including the Federal Information Security Modernization Act of 2014, standards issued by the National Institute of Standards and Technology, and OMB guidelines (*e.g.*, Circular A–130, *Managing Information as a Strategic Resource*). The Department’s insider threat program is designed to minimize the risks of unauthorized disclosures of information, including a breach of personally identifiable information.

The Department has also determined that the disclosures described in the SORN’s routine uses are necessary to create and maintain an effective insider threat program that complies with presidential mandates and federal law. In sum, the Department has thoroughly reviewed its program and determined that the SORN accurately describes the existence and character of the system of records, in accordance with the Privacy Act. For these reasons, no alterations will be made to the SORN and the system of records will operate in compliance with the representations made therein.

The comment also raised objections to some of the exemptions proposed in the NPRM. While the comment noted a general objection to claiming any of the exemptions allowed under 5 U.S.C. 552a(j) and (k), specific objections were only raised for a few of the exemptions claimed regarding 5 U.S.C. 552a(e), detailing agency requirements. The Department addresses those objections in the following paragraphs.

5 U.S.C. 552a(e)(1), (d)(1)–(4), (e)(4)(G), (H), and (I), Relevant and Necessary, Notification, Access Procedures, Record Source Categories

The comment asserted that the effect of claiming exemptions to 5 U.S.C. 552a(e)(1), (e)(4)(I), and (e)(4)(G) and (H) would be to diminish DOJ's legal accountability, stating that "DOJ claims the authority to collect any information it wants without disclosing where it came from or even acknowledging its existence." Contrary to the comment, the Department follows the letter and spirit of the Privacy Act in claiming these exemptions as a law enforcement and national security-focused agency. The Department maintains a constant commitment to protecting the privacy and civil liberties of all Americans.

Regarding 5 U.S.C. 552a(e)(1), the Department only collects information it is legally authorized to collect. Moreover, as explained below, it is not always possible to know in advance what information is relevant and necessary for law enforcement and intelligence purposes. The relevance and utility of certain information that may have a nexus to insider threats may not always be fully evident until and unless it is vetted and matched with other information lawfully maintained by the DOJ. Nonetheless, DOJ requires its employees and agents to take reasonable steps designed to ensure collection of relevant and necessary information.

Regarding 5 U.S.C. 552a(e)(4)(I), the DOJ Insider Threat Program Records system of records notice disclosed to the greatest extent practicable the record source categories for the information in the system. To the extent that Section 552a(e)(4)(I) is interpreted to require more detail regarding the record sources in this system than has already been published in the SORN, exemption from this provision is necessary to protect the sources of law enforcement and intelligence information and to protect the privacy and safety of witnesses and informants and others who provide information to the Department.

The comment states that the Department is exempting itself from providing individuals access to and amendment of records in the system, which is under 5 U.S.C. 552a(d), and also implies the Department is exempting itself from providing notice to individuals regarding the procedures for access to and amendment of records, under 5 U.S.C. 552a(e)(4)(G) and (H). The Department proposed to exempt itself from the access and amendment requirements of 5 U.S.C. 552a(d)(1), (2), (3), and (4) because providing access

and amendment rights to such records could compromise or lead to the compromise of information classified to protect national security; disclose information that would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; disclose or lead to disclosure of information that would allow a subject to avoid detection or apprehension; or constitute a potential danger to the health or safety of law enforcement personnel, confidential sources, or witnesses. Because the Department proposed to exempt itself from these access and amendment requirements, it logically follows that the Department also proposed to exempt itself from the requirement to publish notice to individuals of how to avail themselves of these access and amendment requirements under 5 U.S.C. 552a(e)(4)(G) and (H).

Nonetheless, in the SORN for the Insider Threat Program Records, DOJ provided notice of procedures to request access and amendment because, to the extent that an access or amendment request relates to information outside the scope of permissible exemptions, DOJ will comply with applicable requirements. Also, when DOJ compliance with an access or amendment request would not appear to interfere with or adversely affect the purpose of the system to detect, deter, and/or mitigate insider threats, the DOJ may waive the applicable exemption in its sole discretion and provide appropriate access or amendment.

5 U.S.C. 552a(e)(5), Accuracy, Relevance, Timeliness, and Completeness

The comment asserts that the Department claiming an exemption to 5 U.S.C. 552a(e)(5), *i.e.*, maintaining records "which are used by the agency in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as reasonably necessary to assure fairness to the individual in the determination," means the Department "objects to guaranteeing 'fairness' to individuals in the 'Insider Threat' Database." The Department does not agree with this characterization. The collection of information for authorized law enforcement and intelligence purposes, including efforts to detect, deter, and/or mitigate insider threats, follows lawful, vetted investigative practices and procedures. In the investigative process, the DOJ at times collects information that may not be immediately shown to be accurate, relevant, timely, and complete. Law

enforcement and intelligence investigators and analysts need to be able to collect the information they believe is necessary in their sound professional judgment to fully analyze a situation and move an investigation forward or close an investigation as appropriate. It could impede the investigative process if DOJ were required to assure relevance, accuracy, timeliness and completeness of all information obtained throughout the course and within the scope of an investigation. Additionally, some of the records in this system may come from other domestic or foreign government organizations, or private entities, and it would not be administratively feasible for the DOJ to vouch for the compliance of these agencies with this provision. Understanding the inherent challenges in the investigative context that underlie DOJ's need to exempt this system from Privacy Act § 552a(e)(5), DOJ nonetheless requires and trains its personnel to take reasonable steps designed to ensure that records used by DOJ in making a determination about an individual are maintained with such accuracy, relevance, timeliness, and completeness as reasonably necessary to assure fairness to the individual in the determination.

The Department has concluded that, in light of the reasonable steps DOJ investigators and analysts are required to take in collecting and maintaining the information needed to support DOJ's mission and investigations, and in light of the compelling need to facilitate thorough and expeditious investigations and activities to deter, detect, and mitigate insider threats, exemption from the requirement of 5 U.S.C. 552a(e)(5) is appropriate for the Insider Threat Program Records System.

Conclusion

Because insiders have heightened access, and could potentially use that access, either wittingly or unwittingly, to do harm to the security of the United States, the Department must be particularly vigilant in its detection and investigation of insider threats. Nonetheless, the Department takes seriously its obligations to protect the privacy of Americans. As to the claimed exemptions, where DOJ determines that compliance with an exempted Privacy Act provision would not appear to interfere with or adversely affect the purpose of this system to detect, deter, and/or mitigate insider threat, the applicable exemption may be waived by the Department in its sole discretion.

List of Subjects in 28 CFR Part 16

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

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

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

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

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

Subpart E—Exemption of Records Systems Under the Privacy Act

■ 2. Add § 16.137 to subpart E to read as follows:

§ 16.137 Exemption of the Department of Justice Insider Threat Program Records—limited access.

(a) The Department of Justice Insider Threat Program Records (JUSTICE/DOJ–018) system of records is exempted from subsections 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1), (2) and (3); (e)(4)(G), (H) and (I); (e)(5) and (8); (f) and (g) of the Privacy Act. These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j) or (k). Where DOJ determines compliance would not appear to interfere with or adversely affect the purpose of this system to detect, deter, and/or mitigate insider threats, the applicable exemption may be waived by the DOJ in its sole discretion.

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

(1) From subsection (c)(3), the requirement that an accounting be made available to the named subject of a record, because this system is exempt from the access provisions of subsection (d). Also, because making available to a record subject the accounting of disclosures of records concerning him/her would specifically reveal any insider threat-related interest in the individual by the DOJ or agencies that are recipients of the disclosures. Revealing this information could compromise ongoing, authorized law enforcement and intelligence efforts, particularly efforts to identify and/or mitigate insider threats. Revealing this information could also permit the record subject to obtain valuable insight concerning the information obtained during any investigation and to take

measures to impede the investigation, e.g., destroy evidence or flee the area to avoid the investigation.

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

(3) From subsection (d)(1), (2), (3) and (4), (e)(4)(G) and (H), (e)(8), (f) and (g) because these provisions concern individual access to and amendment of law enforcement, intelligence and counterintelligence, and counterterrorism records, and compliance with these provisions could alert the subject of an authorized law enforcement or intelligence activity about that particular activity and the interest of the DOJ and/or other law enforcement or intelligence agencies. Providing access could compromise or lead to the compromise of information classified to protect national security; disclose information that would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; disclose or lead to disclosure of information that would allow a subject to avoid detection or apprehension; or constitute a potential danger to the health or safety of law enforcement personnel, confidential sources, or witnesses.

(4) From subsection (e)(1) because it is not always possible to know in advance what information is relevant and necessary for law enforcement and intelligence purposes. The relevance and utility of certain information that may have a nexus to insider threats may not always be fully evident until and unless it is vetted and matched with other information necessarily and lawfully maintained by the DOJ.

(5) From subsection (e)(2) and (3) because application of these provisions could present a serious impediment to efforts to detect, deter and/or mitigate insider threats. Application of these provisions would put the subject of an investigation on notice of the investigation and allow the subject an opportunity to engage in conduct intended to impede the investigative activity or avoid apprehension.

(6) From subsection (e)(4)(I), to the extent that this subsection is interpreted to require more detail regarding the record sources in this system than has

been published in the **Federal Register**. Should the subsection be so interpreted, exemption from this provision is necessary to protect the sources of law enforcement and intelligence information and to protect the privacy and safety of witnesses and informants and others who provide information to the DOJ. Further, greater specificity of sources of properly classified records could compromise national security.

(7) From subsection (e)(5) because in the collection of information for authorized law enforcement and intelligence purposes, including efforts to detect, deter, and/or mitigate insider threats, due to the nature of investigations and intelligence collection, the DOJ often collects information that may not be immediately shown to be accurate, relevant, timely, and complete, although the DOJ takes reasonable steps to collect only the information necessary to support its mission and investigations. Additionally, the information may aid DOJ in establishing patterns of activity and provide criminal or intelligence leads. It could impede investigative progress if it were necessary to assure relevance, accuracy, timeliness and completeness of all information obtained throughout the course and within the scope of an investigation. Further, some of the records in this system may come from other domestic or foreign government entities, or private entities, and it would not be administratively feasible for the DOJ to vouch for the compliance of these agencies with this provision.

Dated: September 7, 2017.

Peter A. Winn,

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

[FR Doc. 2017–19483 Filed 9–13–17; 8:45 am]

BILLING CODE 4410–NW–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R09–OAR–2017–0259; FRL–9966–89–Region 9]

Approval of California Air Plan Revisions, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the South Coast Air Quality Management District (SCAQMD

or “District”) portion of the California State Implementation Plan (SIP). These revisions concern emissions of oxides of nitrogen (NO_x) and oxides of sulfur (SO_x) from facilities that emit four or more tons per year of NO_x or SO_x, which are regulated by SCAQMD’s Regional Clean Air Incentives Market (RECLAIM) program. We are approving revisions to local rules in the SIP that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on October 16, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2017–0259. All

documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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 through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947–4126, Law.Nicole@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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- I. Proposed Action
- II. Public Comments and EPA Responses
- III. Final Action
- IV. Incorporation by Reference
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I. Proposed Action

On June 6, 2017 (82 FR 25996), the EPA proposed to approve the following rules into the California SIP.

Local agency	Rule No.	Rule title	Adopted/ amended/ revised	Submitted
SCAQMD	2001	Applicability	12/04/15	03/17/17
SCAQMD	2002	Allocations for NO _x and SO _x	10/07/16	03/17/17
SCAQMD	2005	New Source Review for Regional Clean Air Incentives Market.	12/04/15	03/17/17
SCAQMD	2011: Attachment C	Requirements for Monitoring, Reporting, and Record-keeping for SO _x Emissions: Quality Assurance and Quality Control Procedures.	12/04/15	03/17/17
SCAQMD	2011: Chapter 3	Requirements for Monitoring, Reporting, and Record-keeping for SO _x Emissions: Process Units—Periodic Reporting and Rule 219 Equipment.	12/04/15	03/17/17
SCAQMD	2012: Attachment C	Requirements for Monitoring, Reporting, and Record-keeping for NO _x Emissions: Quality Assurance and Quality Control Procedures.	12/04/15	03/17/17
SCAQMD	2012: Chapter 4	Requirements for Monitoring, Reporting, and Record-keeping for NO _x Emissions: Process Units—Periodic Reporting and Rule 219 Equipment.	12/04/15	03/17/17
SCAQMD	2011: Attachment E	Requirements for Monitoring, Reporting, and Record-keeping for SO _x Emissions: Definitions.	02/05/16	03/17/17
SCAQMD	2012: Attachment F	Requirements for Monitoring, Reporting, and Record-keeping for NO _x Emissions: Definitions.	02/05/16	03/17/17

We proposed to approve these rules for SIP strengthening purposes based on a determination that they satisfied the applicable CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During this period, we received one comment letter dated July 6, 2017, from Adriano Martinez of Earthjustice, on behalf of the Sierra Club.

Several of Earthjustice’s comments pertain to CAA requirements concerning reasonably available control technology (RACT). As we explained in our June 6, 2017 proposed rule, we are not reviewing the submitted rule revisions with respect to RACT requirements in this action.¹ Therefore, comments

pertaining to whether the RECLAIM program, as revised in this action, meets substantive RACT requirements are not germane to this action. We note that the commenter submitted substantially identical comments on a separate proposed rule published June 15, 2017, in which the EPA proposed to determine that the revised RECLAIM regulations satisfy CAA requirements for ozone RACT SIPs in the South Coast ozone nonattainment area.² We intend to address Earthjustice’s comments pertaining to RACT requirements as part of our final action on the separate South Coast ozone RACT SIP submission. Below we respond only to those comments that are germane to our June 6, 2017 proposal to approve these revisions to the RECLAIM rules into the California SIP.

Comment 1: Earthjustice asserts that the revised RECLAIM program does not properly address RECLAIM trading

credits (RTCs) from facilities that have shut down. While acknowledging that the District has made some program amendments to prevent shutdown facility RTCs from flooding the RECLAIM market, Earthjustice claims that these amendments do not remedy the problem of NO_x credits from facilities or equipment that shut down prior to 2016. As an example, Earthjustice highlights the California Portland Cement facility, which was one of the largest NO_x emitters in the NO_x RECLAIM program until it closed down its cement kilns, releasing 2.5 tons per day of RTCs into the RECLAIM market. According to Earthjustice, these RTCs were largely purchased by oil refineries, which used the RTCs to avoid installing selective catalytic reduction and other readily available NO_x pollution controls. Earthjustice contends that the District’s failure to remove these RTCs from the RECLAIM market is arbitrary and capricious and that, because of this deficiency, the NO_x RECLAIM program

¹ 82 FR 25996, 25998 (June 6, 2017).

² 82 FR 27451 (June 15, 2017).

fails to satisfy both California's Best Available Retrofit Control Technology (BARCT) requirement and the CAA's RACT requirement.

Response 1: We disagree with the commenter's claim that the alleged deficiencies preclude approval of the revised RECLAIM rules into the SIP. As explained in our proposed rule, we have evaluated the revised rules for compliance with the applicable CAA requirements for enforceability, new source review, SIP revisions, and economic incentive programs.³ The commenter fails to identify any specific issue that precludes a finding that the revised RECLAIM regulations satisfy these requirements.

The commenter also fails to identify any statutory basis, other than the CAA RACT requirement, for its argument that the EPA cannot approve the revised RECLAIM rules. To the extent the commenter intended to argue that the alleged deficiencies in the revised RECLAIM program constitute RACT deficiencies under the CAA, those comments are outside the scope of this action for the reasons stated earlier in this preamble, and the EPA will respond to them as part of our final action on the SCAQMD's separate ozone RACT SIP submission. Comments regarding BARCT and command-and-control equivalence requirements under state law also are not germane to this action, as the CAA does not require the EPA to determine that the revised RECLAIM rules comply with state law BARCT requirements before approving these SIP revisions.

As we explained in our proposed rule and related technical support document (TSD), the revised RECLAIM program is projected to achieve significant environmental benefits compared to the version that the EPA previously approved into the SIP.⁴ For example, under the program as previously approved into the SIP, available RTCs from facilities that permanently shut down could be sold and reintroduced back into the RECLAIM program for use by other facilities, thereby delaying or eliminating the need for those other facilities to install pollution control equipment.⁵ Under the revised program,

the owner or operator of a NO_x RECLAIM facility that shuts down or surrenders all operating permits for the facility must notify the District within 30 days and reduce its future NO_x RTC allocations after adjusting the RTCs in accordance with specific adjustment calculations.⁶ The revised RECLAIM program also lowers the NO_x RTC allocations for larger facilities⁷ and removes NO_x RTCs from facilities that exit the program.⁸ These revisions to the RECLAIM program are projected to reduce NO_x emissions by 12 tons per day by 2023.⁹ These program revisions require NO_x RECLAIM facilities to reduce NO_x emissions by installing additional pollution control equipment and thus do not interfere with the ongoing process for ensuring that requirements for reasonable further progress (RFP) and attainment of the National Ambient Air Quality Standards are met, or interfere with any other CAA requirement. The revisions therefore satisfy the requirements for SIP revisions in CAA section 110(l). Again, we are not evaluating whether the revised RECLAIM rules meet RACT requirements for NO_x in this action.

Earthjustice's stated concern about "the problem of NO_x credits from facilities or equipment that shut down prior to 2016" appears to be in reference to section (i)(1) of Rule 2002, as amended, which states that the requirements specified in that section are effective October 7, 2016, the date of their adoption by the SCAQMD. As the District explained in its staff report, the new shutdown provisions in section (i) of amended Rule 2002 will not be applied retroactively to facility shutdowns that occurred prior to the adoption date of the amended rule.¹⁰ We do not see a basis for disapproving

Oxides of Sulfur (SO_x), October 7, 2016 (hereafter "2016 RECLAIM Staff Report") at 3.

⁶ SCAQMD Rule 2002 (as amended October 7, 2016), section (i). Rule 2002, as amended, provides limited exceptions from the requirement for shutdown facilities to surrender RTCs, e.g., for facilities under the same ownership. SCAQMD Rule 2002 (as amended October 7, 2016), section (i)(13).

⁷ SCAQMD, Draft Final Staff Report, Proposed Amendments to Regulation XX Regional Clean Air Incentives Market (RECLAIM) NO_x RECLAIM, December 4, 2015, at 5.

⁸ SCAQMD Rule 2001 (as amended December 4, 2015), section (g)(2). Rule 2001, as amended, allows owners or operators of electric generating facilities to exit the RECLAIM program provided the facility meets Best Available Control Technology (BACT) or Best Available Retrofit Control Technology (BARCT) requirements and retires its NO_x RTCs from the RECLAIM market. *Id.*

⁹ RECLAIM TSD at 9; *see also* SCAQMD, Summary Minutes of the Board of the South Coast Air Quality Management District, December 4, 2015, at 15.

¹⁰ 2016 RECLAIM Staff Report at 9.

Rule 2002 because its provisions are not applied retroactively.

Comment 2: Citing section 110(a)(2)(E) of the CAA, Earthjustice asserts that the EPA can approve a SIP revision only if it determines that the provision is not inconsistent with state law. Earthjustice contends that the revised RECLAIM rules violate California law because they are not equivalent to BARCT and are not equivalent to command-and-control regulations, as required by California's Health and Safety Code. Earthjustice contends that the EPA therefore cannot make the determination required in section 110 of the Act that the approval not interfere with compliance with state law.

Response 2: We disagree with the commenter's claim that we must determine under CAA section 110 that a SIP revision is not inconsistent with state law BARCT requirements, or that the approval would not interfere with compliance with state law BARCT requirements, before we approve the revision. To approve a SIP revision, the EPA must determine that the SIP revision is supported by necessary assurances that the state or relevant local or regional agency has adequate legal authority under state and local law to carry out its provisions and that the agency is not prohibited by any provision of federal or state law from carrying out such SIP or portion thereof.¹¹ In addition, the EPA must not approve any SIP revision that would interfere with any applicable requirement concerning attainment and RFP, or any other applicable requirement of the CAA.¹²

Alleged inconsistency with state law is relevant to the EPA in the context of our SIP review if it undermines the legal authority by the state or relevant local or regional agency to carry out the SIP, but alleged interference with compliance with state law requirements generally is not a bar to EPA approval. The EPA evaluates compliance with federal law (specifically, the CAA), not state law. California Air Resources Board (CARB) has provided the EPA with the necessary assurances that the District has the legal authority to carry out the revised RECLAIM rules.¹³ Therefore, we find that the revised

¹¹ CAA section 110(a)(2)(E).

¹² CAA section 110(l).

¹³ *See* CARB Executive Order S-17-002 (dated March 6, 2017) adopting the amended RECLAIM rules as a revision to the California SIP. The Executive Order states that the District is authorized by California Health and Safety Code (H&SC) section 40001 to adopt and enforce the rules identified in Enclosure A (*i.e.*, the amended RECLAIM rules).

³ 82 FR 25996, 25998 (June 6, 2017).

⁴ *Id.* and U.S. EPA, Region IX Air Division, "Technical Support Document for EPA's Rulemaking for the California State Implementation Plan, South Coast Air Quality Management District Regional Clean Air Incentives Market Program Rules," May 2017 (hereafter "RECLAIM TSD"), at 9, 10.

⁵ SCAQMD, Final Staff Report, Proposed Amendments to Regulation XX—Regional Clean Air Incentives Market, Proposed Amended Rule 2002—Allocations for Oxides of Nitrogen (NO_x) and

RECLAIM rules satisfy the requirements of CAA section 110(a)(2)(E). We explained in Response 1, above, our reasons for concluding that the revised RECLAIM rules satisfy the requirements for SIP revisions in CAA section 110(l).

For the reasons provided in our proposed rule and explained further above, we conclude that the revised RECLAIM regulations satisfy the applicable CAA requirements for SIP revisions.

III. Final Action

No comments were submitted that change our assessment of the revised RECLAIM rules as described in our proposed action. Therefore, under section 110(k)(3) of the Act, the EPA is fully approving these revised rules into the California SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SCAQMD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, 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 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).

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. The 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13,

2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: August 15, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

- 2. Section 52.220 is amended by adding paragraphs (c)(337)(i)(C)(2) through (7), (c)(342)(i)(C)(5), (c)(388)(i)(A)(6), (c)(404)(i)(A)(5), and (c)(491) to read as follows:

§ 52.220 Identification of plan-in part.

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* * * * *
(c) * * *
(337) * * *
(i) * * *
(C) * * *
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(2) Previously approved on August 29, 2006, in paragraph (c)(337)(i)(C)(1) of this section and now deleted with replacement in (c)(491)(i)(A)(4), Rule 2011: Attachment C, "Requirements for Monitoring, Reporting, and Recordkeeping for SO_x Emissions: Quality Assurance and Quality Control Procedures," amended on December 4, 2015.

(3) Previously approved on August 29, 2006, in paragraph (c)(337)(i)(C)(1) of this section and now deleted with replacement in (c)(491)(i)(A)(5), Rule 2011: Chapter 3, "Requirements for Monitoring, Reporting, and Recordkeeping for SO_x Emissions: Process Units—Periodic Reporting and Rule 219 Equipment," amended on December 4, 2015.

(4) Previously approved on August 29, 2006, in paragraph (c)(337)(i)(C)(1) of this section and now deleted with replacement in (c)(491)(i)(A)(6), Rule 2012: Attachment C, “Requirements for Monitoring, Reporting, and Recordkeeping for NO_x Emissions: Quality Assurance and Quality Control Procedures,” amended on December 4, 2015.

(5) Previously approved on August 29, 2006, in paragraph (c)(337)(i)(C)(1) of this section and now deleted with replacement in (c)(491)(i)(A)(7), Rule 2012: Chapter 4, “Requirements for Monitoring, Reporting, and Recordkeeping for NO_x Emissions: Process Units—Periodic Reporting and Rule 219 Equipment,” amended on December 4, 2015.

(6) Previously approved on August 29, 2006, in paragraph (c)(337)(i)(C)(1) of this section and now deleted with replacement in (c)(491)(i)(A)(8), Rule 2011: Attachment E, “Requirements for Monitoring, Reporting, and Recordkeeping for SO_x Emissions: Definitions,” amended on February 5, 2016.

(7) Previously approved on August 29, 2006, in paragraph (c)(337)(i)(C)(1) of this section and now deleted with replacement in (c)(491)(i)(A)(9), Rule 2012: Attachment F, “Requirements for Monitoring, Reporting, and Recordkeeping for NO_x Emissions: Definitions,” amended on February 5, 2016.

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(342) * * *

(i) * * *

(C) * * *

(5) Previously approved on August 29, 2006 in paragraph (c)(342)(i)(C)(2) of this section and now deleted with replacement in (c)(491)(i)(A)(1), Rule 2001, “Applicability,” amended on December 4, 2015.

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(388) * * *

(i) * * *

(A) * * *

(6) Previously approved on August 12, 2011 in paragraph (c)(388)(i)(A)(4) of this section and now deleted with replacement in (c)(491)(i)(A)(2), Rule 2002, “Allocations for NO_x & SO_x,” amended on October 7, 2016.

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(404) * * *

(i) * * *

(A) * * *

(5) Previously approved on December 20, 2011 in paragraph (c)(404)(i)(A)(1) of this section and now deleted with replacement in (c)(491)(i)(A)(3), Rule 2005, “New Source Review for Regional

Clean Air Incentives Market,” amended on December 4, 2015.

* * * * *

(491) Amended regulations for the following APCDs were submitted on March 17, 2017 by the Governor’s designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(1) Rule 2001, “Applicability,” amended on December 4, 2015.

(2) Rule 2002, “Allocations for Oxides of Nitrogen (NO_x) and Oxides of Sulfur (SO_x),” amended on October 7, 2016.

(3) Rule 2005, “New Source Review for RECLAIM,” amended on December 4, 2015.

(4) Protocol for Rule 2011: Attachment C, “Quality Assurance and Quality Control Procedures,” amended on December 4, 2015.

(5) Protocol for Rule 2011: Chapter 3, “Process Units—Periodic Reporting,” amended on December 4, 2015.

(6) Protocol for Rule 2012: Attachment C, “Quality Assurance and Quality Control Procedures,” amended on December 4, 2015.

(7) Protocol for Rule 2012: Chapter 4, “Process Units Periodic Reporting and Rule 219 Equipment,” amended on December 4, 2015.

(8) Protocol for Rule 2011: Attachment E, “Definitions,” amended on February 5, 2016.

(9) Protocol for Rule 2012: Attachment F, “Definitions,” amended on February 5, 2016.

[FR Doc. 2017-19454 Filed 9-13-17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2017-0339; FRL-9967-66-Region 8]

Montana Second 10-Year Carbon Monoxide Maintenance Plan for Missoula

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action approving a State Implementation Plan (SIP) revision submitted by the State of Montana. On September 19, 2016, the Governor of Montana submitted to the EPA a Clean Air Act (CAA) section 175A(b) second 10-year maintenance plan for the Missoula, Montana area for the carbon monoxide (CO) National Ambient Air

Quality Standard (NAAQS). This limited maintenance plan (LMP) addresses maintenance of the CO NAAQS for a second 10-year period beyond the original redesignation. This action is being taken under sections 110 and 175A of the CAA.

DATES: This rule is effective on November 13, 2017 without further notice, unless the EPA receives adverse comment by October 16, 2017. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2017-0339 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. (303) 312-7104, clark.adam@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

What should I consider as I prepare my comments for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to the EPA through <https://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to the EPA, mark the outside

of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** volume, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and
- Make sure to submit your comments by the comment period deadline identified.

II. Background

Under the CAA Amendments of 1990, the Missoula area was designated as nonattainment and classified as a “moderate” CO area, with a design value of less than or equal to 12.7 parts per million (ppm) (56 FR 56694, November 6, 1991). On May 27, 2005, the Governor of Montana submitted to the EPA a request to redesignate the Missoula CO nonattainment area to attainment for the 8-hour CO NAAQS. Along with this request, the Governor submitted a CAA section 175A(a) maintenance plan which established an attainment year of 2000, and demonstrated that the area would maintain the 8-hour CO NAAQS through 2020. The EPA approved the State’s redesignation request, CAA section 175A(a) maintenance plan and base year emissions inventory on August 17, 2007 (72 FR 46158).

Eight years after an area is redesignated to attainment, CAA Section 175A(b) requires the state to

submit a subsequent maintenance plan to the EPA, covering a second 10-year period.¹ This second 10-year maintenance plan must demonstrate continued maintenance of the applicable NAAQS during this second 10-year period. To fulfill this requirement of the Act, the Governor of Montana submitted the second 10-year Missoula CO maintenance plan (hereafter, “revised Missoula Maintenance Plan”) to the EPA on September 19, 2016. With this action, we are approving the revised Missoula Maintenance Plan.

The 8-hour CO NAAQS—9.0 ppm—is attained when such value is not exceeded more than once a year. 40 CFR 50.8(a)(1). The Missoula area has attained the 8-hour CO NAAQS from 1992 to the present.² In October 1995, the EPA issued guidance that provided nonclassifiable CO nonattainment areas the option of using a less rigorous “limited maintenance plan” (LMP) option to demonstrate continued attainment and maintenance of the 8-hour CO NAAQS.³ According to this guidance, areas that can demonstrate design values at or below 7.65 ppm (85% of exceedance levels of the 8-hour CO NAAQS) for eight consecutive quarters qualify to use a LMP. For the revised Missoula Maintenance Plan, on which we are finalizing action, the State used the LMP option to demonstrate continued maintenance of the 8-hour CO NAAQS in the Missoula area through 2027. We have determined that the Missoula area qualifies for the LMP option for this plan revision, since the area’s maximum design value for the most recent eight consecutive quarters with certified data (years 2009 and 2010) was 2.4 ppm.⁴

¹ In this case, the initial maintenance period described in CAA section 175A(a) was required to extend for at least 10 years after the redesignation to attainment, which was effective on September 17, 2007. See 72 FR 46158. The first maintenance plan showed maintenance through 2020. CAA section 175A(b) requires that the second 10-year maintenance plan maintain the NAAQS for “10 years after the expiration of the 10-year period referred to in [section 175A(a)].” Thus, for the Missoula area, the second 10-year period ends in 2027.

² <http://www.epa.gov/airdata/>.

³ Memorandum “Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas” from Joseph W. Paisie, Group Leader, EPA Integrated Policy and Strategies Group, to Air Branch Chiefs, October 6, 1995 (hereafter referred to as “LMP Guidance”).

⁴ See Table 1 below. Additionally, according to the LMP guidance, an area using the LMP option must continue to have a design value “at or below 7.65 ppm until the time of final EPA action on the redesignation.” Table 1, below, demonstrates that the area meets this requirement.

III. The EPA’s Evaluation of the Revised Missoula Maintenance Plan

The following are the key elements of an LMP for CO: Emission Inventory, Maintenance Demonstration, Monitoring Network/Verification of Continued Attainment, Contingency Plan, and Conformity Determinations. Below, the EPA describes our evaluation of each of these elements as it pertains to the revised Missoula Maintenance Plan.

A. Emission Inventory

The revised Missoula Maintenance Plan contains an emissions inventory for the base year 2010. The emission inventory is a list, by source category, of the air contaminants directly emitted into the Missoula CO maintenance area on a typical winter day in 2010.⁵ The data in the emission inventory were developed using EPA-approved emissions modeling methods. A more detailed description of the 2010 inventory is documented in the Missoula CO maintenance plan. See Revised Missoula Maintenance Plan, p. 4–6. Included in this inventory are residential wood burning, natural gas combustion, commercial equipment, construction equipment, industrial equipment, residential lawn and garden equipment, commercial lawn and garden equipment, railway maintenance equipment, railway locomotives, motor vehicle exhaust, and point sources. Notably, motor vehicle exhaust from onroad mobile sources accounted for 71% of total CO emissions in the Missoula Maintenance Area during the inventory period. The revised maintenance plan contains detailed emission inventory information that was prepared in accordance with EPA guidance, and is acceptable to the EPA.⁶

B. Maintenance Demonstration

The EPA considers the maintenance demonstration requirement to be satisfied for areas that qualify for and are using the LMP option. As mentioned above, a maintenance area is qualified to use the LMP option if that area’s maximum 8-hour CO design value for eight consecutive quarters does not exceed 7.65 ppm (85% of the CO NAAQS). The EPA maintains that if an

⁵ Violations of the 8-hour CO NAAQS are most likely to occur on winter weekdays, as weekdays see more consistent workweek traffic and the Missoula area is prone to temperature inversions in the winter which lead to stagnant air conditions. The typical winter day from 2010 was used because monitoring in Missoula ceased in 2011.

⁶ See “Procedures for Processing Requests to Redesignate Areas to Attainment,” from John Calcagni, Director, Air Quality Management Division, EPA, September 4, 1992.

area begins the maintenance period with a design value no greater than 7.65 ppm, the air quality along with the continued applicability of prevention of significant deterioration requirements, the control measures already in the SIP, and federal measures should provide adequate assurance of maintenance over the 10-year maintenance period and the EPA would not require such areas to project emissions over the maintenance period. Because the last recorded CO design values in the Missoula area were consistently well below the LMP threshold (See Table 1 below) and no changes are proposed to the area's permanent and enforceable control measures, the State has adequately demonstrated that the Missoula area will maintain the 8-hour CO NAAQS into the future.

TABLE 1—8-HOUR CO DESIGN VALUES FOR MISSOULA, MONTANA

Design value (ppm) ⁷	Year
3.6	2003
2.9	2004
3.6	2005
2.4	2006
2.4	2007
2.7	2008
2.5	2009

TABLE 1—8-HOUR CO DESIGN VALUES FOR MISSOULA, MONTANA—Continued

Design value (ppm) ⁷	Year
2.2	2010
2.1 ⁸	2011

C. Monitoring Network/Verification of Continued Attainment

In the revised Missoula Maintenance Plan, the State adopted an alternative monitoring strategy for Missoula that was previously approved by the EPA to satisfy this requirement for both the Billings CO Maintenance Area (80 FR 16571, March 30, 2015) and Great Falls CO Maintenance Area (80 FR 17331, April 1, 2015). The State adopted the alternative monitoring strategy to conserve resources by discontinuing the gaseous CO ambient monitor in the Missoula CO maintenance area. In place of the gaseous ambient monitor, the State's alternative method relies on rolling 3-year Average Daily Traffic (ADT) vehicle counts collected from permanent automatic traffic recorders (devices installed into a street's pavement to continuously collect data) in each maintenance area.

Since 2006, no Missoula monitor has registered a design value greater than 2.7 ppm, roughly 30% of the NAAQS.⁹ Citing these consistently low monitor values, and expressing a desire to conserve monitoring resources, the State requested to discontinue CO monitoring in Missoula and instead use an alternative strategy for monitoring maintenance of the 8-hour CO NAAQS.

The alternative monitoring strategy utilizes ADT vehicle counts collected from permanent automatic traffic recorders in the Missoula CO maintenance area to determine average monthly traffic during the traditional high CO concentration season of November through February (the winter season). The State will compare the latest rolling 3-year ADT volumes during the winter season to the 2008–2011 baseline ADT volumes (see Table 2) that correlate to the low CO monitored values during that period (see Table 1).¹⁰ Because mobile sources are the biggest driver of CO pollution, the Montana Department of Environmental Quality (MDEQ) reasoned that any significant increase in CO emissions would have to be accompanied by a significant increase in ADT.¹¹ The EPA agrees with the State's reasoning.

TABLE 2—TRAFFIC VOLUMES FOR MISSOULA, MONTANA

Winter season	Average daily traffic for site A–037		
	Winter monthly average	Rolling three-year average	% Difference from 2008–2011 baseline
November 2008–January 2009*	19,134		
November 2009–February 2010	20,320		
November 2010–February 2011	20,221	(Baseline) 19,892	
November 2011–February 2012	20,120	20,220	1.65
November 2012–February 2013	20,004	20,115	1.12
November 2013–February 2014	19,943	20,022	0.66
November 2014–February 2015	21,037	20,328	2.19
November 2015–February 2016	21,763	20,914	5.14

* There is no ADT information available for February 2009.

If the rolling 3-year ADT value is 25% higher than the monthly average value from the November 2008–February 2011 baseline period of 19,892, the State, in cooperation with the Missoula City-County Health Department (MCCHD), will reestablish CO ambient monitoring in Missoula the following high season (November–February). If the CO design value in the following high season has

not increased from the baseline mean by an equal or greater rate at which the ADT has increased, and the monitor values remain at or below 50% of the 8-hour CO NAAQS (2nd max concentration ≤4.5 ppm), the monitor may be removed and the ADT counts will continue to be relied upon to determine compliance with the NAAQS. This process will be repeated each time

the rolling 3-year ADT increases by a factor of 25% (e.g., 50%, 75%) above the baseline 2008–2011 period, and the same analysis will be conducted to determine if the monitors can be removed.

40 CFR 58.14(c) allows approval of requests to discontinue ambient monitors “on a case-by-case basis if discontinuance does not compromise

⁷ Design values were derived from the EPA AirData Web site (<https://www.epa.gov/airdata/>).

⁸ The monitor only operated for 47 days in 2011, and ceased operation on March 31, 2011. The 2.1

ppm value in Table 1 indicates the highest value recorded at the CO monitor in 2011.

⁹ See Table 1 above. Design values were derived from the EPA AirData (<https://www.epa.gov/airdata/>) Web site.

¹⁰ In the revised Missoula Maintenance Plan, the State refers to this period 2008–2010 baseline.

¹¹ See “Review of National Ambient Air Quality Standards for Carbon Monoxide,” 76 FR 54294, August 31, 2011.

data collection needed for implementation of a NAAQS and if the requirements of appendix D to 40 CFR part 58, if any, continue to be met.” The EPA finds that the alternative monitoring strategy in the revised Missoula Maintenance Plan meets the criteria of 40 CFR 58.14(c) for the Missoula CO maintenance area. Given the long history of low CO concentrations in the Missoula area and the adequacy of the alternative monitoring strategy at ensuring continued attainment of the CO NAAQS in the area, the EPA finds it appropriate to approve the State’s request to not operate a gaseous CO monitor in Missoula and use the alternative monitoring strategy in its place.

D. Contingency Plan

The revised Missoula Maintenance Plan stated that a trend of increasing CO concentrations or a single 8-hour average of 9.5 ppm or greater would trigger a voluntary, local process by the Missoula Air Pollution Control Board to identify and evaluate potential contingency measures. The plan also indicated that a violation of the 8-hour CO NAAQS (two or more values of 9.5 ppm or greater during a calendar year) would trigger mandatory implementation of contingency measures.

As noted in the previous section, the alternative monitoring strategy in the revised Missoula Maintenance Plan requires reestablishment of a CO monitor in Missoula if traffic levels (responsible for 71% of CO emissions in Missoula) increase from the 2008–2011 baseline by a factor of 25% and provides that any reestablished monitors showing values above 50% of the NAAQS cannot be removed. Therefore, the EPA finds that CO emissions in Missoula are very unlikely to increase to the point of an 8-hour NAAQS exceedance (the trigger for voluntary contingency measures) without that exceedance being observed by a gaseous monitor, as such an increase would most likely coincide with a significant increase in traffic volume.

The revised Missoula Maintenance Plan retains two contingency measures adopted as part of the area’s fully approved SIP. The first expands the oxygenated fuel program to other months besides November, December, January and February, as described in Rule 10.110 of the Missoula City-County Air Pollution Control Program. The second further restricts woodstove burning as described in Rule 9.601 of the Missoula City-County Air Pollution Control Program.

The revised Missoula Maintenance Plan indicates that contingency measures will be implemented within 60 days of notification by MDEQ and the EPA that the Missoula area has violated the 8-hour CO NAAQS. Upon notification of a CO NAAQS violation, MCCHD will review relevant information and implement one or both of the contingency measures to correct the violation. In the event that violations continue to occur after contingency measures have been implemented, additional contingency measures will be implemented until the violations are corrected. See Revised Missoula Maintenance Plan, p. 11.

We find that the contingency measures provided in the revised Missoula Maintenance Plan are sufficient and meet the requirements of section 175A(d) of the CAA.

E. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). The EPA’s conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. To effectuate its purpose, the conformity rule requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emission budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain compliance with the NAAQS in the nonattainment or maintenance area.¹²

Under the LMP guidance, MVEBs generally are treated as not constraining for the length of the maintenance period. While the EPA’s LMP guidance does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting a MVEB. According to the LMP guidance, it is unreasonable to expect that a LMP area will experience so much growth in that

period that a violation of the CO NAAQS would result.¹³ We note that the CO maintenance plan for Missoula that we approved in 2007 (72 FR 46158, August 17, 2007) contains a MVEB for 2020 of 42.67 tons per day of CO. However, the State did not revise or remove this 2020 MVEB from the SIP with the revised Missoula Maintenance Plan. Therefore, under our conformity regulation, consistency with the 2020 MVEB must continue to be demonstrated by the Missoula Metropolitan Planning Organization (MPO) as long as that year is within the timeframe of the RTP (*i.e.*, through 2020). See 40 CFR 93.118(b)(2)(i) and (d)(2).

When the year 2020 is no longer within the timeframe of the transportation plan (*i.e.*, 2021 and beyond), there will no longer be a need to demonstrate conformity with any MVEB for the Missoula CO maintenance area, for the reasons described in the EPA’s LMP guidance. From that point forward, all actions that require conformity determinations for the Missoula CO maintenance area under our conformity rule provisions will be considered to have already satisfied the regional emissions analysis and “budget test” requirements in 40 CFR 93.118, because of our approval of the revised Missoula Maintenance Plan.

However, since LMP areas are still maintenance areas, certain aspects of transportation conformity determinations will be required for transportation plans, programs and projects. Specifically, for such determinations, RTPs, TIPs and projects will have to demonstrate that they are fiscally constrained (40 CFR 93.108) and meet the criteria for consultation and timely implementation of Transportation Control Measures (40 CFR 93.112 and 40 CFR 93.113, respectively). In addition, projects in LMP areas will be required to meet the applicable criteria for localized CO hot spot analyses to satisfy “project level” conformity determinations (40 CFR 93.116 and 40 CFR 93.123), which must also incorporate the latest planning assumptions and models available (40 CFR 93.110 and 40 CFR 93.111, respectively).

Our approval of the revised Missoula Maintenance Plan affects future CO RTP and TIP transportation conformity determinations as prepared by the Missoula MPO, the Montana Department of Transportation, the Federal Highway Administration and the Federal Transit Administration. See 40 CFR 93.100.

¹² Further information concerning the EPA’s interpretations regarding MVEBs can be found in the preamble to EPA’s November 24, 1993 transportation conformity rule (see 58 FR 62193–62196).

¹³ LMP Guidance at 4.

IV. Final Action

We are approving the revised Missoula Maintenance Plan submitted on September 19, 2016. This maintenance plan meets the applicable CAA requirements, and we have determined it is sufficient to provide for maintenance of the 8-hour CO NAAQS over the course of the second 10-year maintenance period out to 2027.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the Proposed Rules section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective November 13, 2017 without further notice unless we receive adverse comments by October 16, 2017. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state actions, provided that they meet the criteria of the CAA. Accordingly, this action merely approves some state law provisions as meeting federal requirements; this action 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 Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP does not 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).

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. The 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 Clean Air Act, petitions for judicial review of

this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

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 31, 2017.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

40 CFR part 52 is amended to read 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 BB—Montana

- 2. Section 52.1373 is amended by revising paragraph (d) to read as follows:

§ 52.1373 Control strategy: Carbon monoxide.

* * * * *

(d) Revisions to the Montana State Implementation Plan, revised Carbon Monoxide Maintenance Plan for Missoula, as submitted by the Governor on September 19, 2016.

[FR Doc. 2017-19460 Filed 9-13-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 271 and 272**

[EPA–R06–2016–0680; FRL–9966–55–Region 6]

Arkansas: Final Authorization of State-Initiated Changes and Incorporation by Reference of Approved State Hazardous Waste Management Program**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: During a review of Arkansas' regulations, the Environmental Protection Agency (EPA) identified State-initiated changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We have determined that these changes are minor and satisfy all requirements needed to qualify for final authorization and are authorizing the State-initiated changes through this direct final action.

DATES: This regulation is effective November 13, 2017, unless the EPA receives adverse written comment on this regulation by the close of business October 16, 2017. If the EPA receives such comments, it will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that this rule will not take effect. The Director of the Federal Register approves the incorporation by reference of certain publications listed in the rule as of November 13, 2017 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–RCRA–2016–0680 by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Email:* patterson.alima@epa.gov.

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, RCRA Permit Section (RPM), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, RCRA Permit Section (RPM), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–RCRA–2016–0680. EPA's policy is that all comments received will be included in the public docket without change and may be available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be Confidential Business Information (CBI) or otherwise protected through <http://www.regulations.gov> or email. The Federal <http://www.regulations.gov> Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be Confidential Business Information (CBI) or otherwise protected through <http://www.regulations.gov> or email. The Federal <http://www.regulations.gov> Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

You can view and copy the documents that form the basis for this authorization and codification and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following location: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, EPA Region 6 Regional Authorization Coordinator, RCRA Permit Section (RPM), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–8533 Email address: patterson.alima@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Introduction**

The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the EPA to authorize States to operate their hazardous waste management programs in lieu of the Federal program. The EPA uses the

regulations entitled "Approved State Hazardous Waste Management Programs" to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that will be subject to the EPA's inspection and enforcement. This rule also codifies in the regulations the prior approval of Arkansas' hazardous waste management program and incorporates by reference authorized provisions of the State's statutes and regulations.

The EPA is publishing this rule to authorize the State-initiated changes and incorporate by reference the State's hazardous waste program without a prior proposal because we believe these actions are not controversial and do not expect comments that oppose them. Unless we receive written comments which oppose the authorization in this codification document during the comment period, the decision to authorize Arkansas' State-initiated changes to its hazardous waste program will take effect. If we receive comments that oppose the authorization, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the State-initiated changes.

II. Authorization of State-Initiated Changes*A. Why are revisions to State programs necessary?*

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal program changes, the States must change their programs and ask the EPA to authorize the changes. Changes to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279. States can also initiate their own changes to their hazardous waste program and these changes must then be authorized.

B. What decisions have we made in this rule?

We conclude that Arkansas' revisions to its authorized program meet all of the

statutory and regulatory requirements established by RCRA. We found that the State-initiated changes make Arkansas' rules more clear or conform more closely to the Federal equivalents and are so minor in nature that a formal application is unnecessary. Therefore, we grant Arkansas final authorization to operate its hazardous waste program with the changes described in the table at Section G below. Arkansas has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out all authorized aspects of the RCRA program, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Arkansas, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

The effect of this decision is that a facility in Arkansas subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Arkansas has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the statutes and regulations for which Arkansas is being authorized by this direct final action are already effective and are not changed by this action.

D. Why wasn't there a proposed rule before this rule?

The EPA did not publish a proposal before this rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the Proposed Rules section of this **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What happens if EPA receives comments opposing this action?

If the EPA receives comments that oppose the authorization of the State-initiated changes in this codification document, we will withdraw this rule by publishing a timely document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later **Federal Register** document. You may not have another opportunity to comment, therefore, if you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we may withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization of the State program will become effective and which part is being withdrawn.

In addition to the authorization of the rules described above in this document, the purpose of this **Federal Register** document is to codify Arkansas' base hazardous waste management program and its revisions to that program. The EPA has already provided notices and opportunity for comments on the Agency's decisions to codify the Arkansas program, and the EPA is not now reopening the decisions, nor requesting comments, on the Arkansas authorization as published in the **Federal Register** documents in Section I.F. of this preamble.

F. For what has Arkansas previously been authorized?

Arkansas initially received final authorization on January 11, 1985, effective January 25, 1985 (50 FR 1513), to implement its Base Hazardous Waste Management program. We granted authorization for changes to their program on August 23, 1985, via EPA letter, effective August 23, 1985; March 27, 1990 (55 FR 11192), effective May 29, 1990; September 18, 1991 (56 FR 47153), effective November 18, 1991; October 5, 1992 (57 FR 45721), effective December 4, 1992; October 12, 1993 (58 FR 52674), effective December 13, 1993; October 7, 1994 (59 FR 51115), effective December 21, 1994; June 20, 1995 (60 FR 32112), effective August 21, 1995; April 24, 2002 (67 FR 20038), effective June 24, 2002, as amended June 28, 2010 (75 FR 36538); August 15, 2007 (72 FR 45663), effective October 15, 2007, as amended June 28, 2010 (75 FR 36538); June 28, 2010 (75 FR 36538), effective August 27, 2010; August 10, 2012 (77 FR 47779), effective October 9, 2012; October 2, 2014 (79 FR 59438), effective December 1, 2014; October 31, 2014 (79 FR 64678), effective December 30, 2014; January 29, 2016 (81 FR 4961), effective March 29, 2016; and August 11, 2016. (81 FR 53025), effective October 11, 2016.

G. What changes are we authorizing with this action?

The State has made amendments to the provisions listed in the table which follows. These amendments clarify the State's regulations and make the State's regulations more internally consistent. The State's laws and regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than, and not broader in scope than the Federal laws and regulations. These State-initiated changes satisfy the requirements of 40 CFR 271.21(a). We are granting Arkansas final authorization to carry out the following provisions of the State's program in lieu of the Federal program. These provisions are analogous to the indicated RCRA regulations found at 40 CFR as of July 1, 2014. The Arkansas provisions are from the Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, adopted on September 25, 2015, effective October 18, 2015.

State requirement (APC&E Regulation No. 23)	Analogous Federal requirement (40 CFR)
262.13(f)	No direct Federal analog; 262 related.
262.26(a)	No direct Federal analog; 262 related.

State requirement (APC&E Regulation No. 23)	Analogous Federal requirement (40 CFR)
262.26(b)	No direct Federal analog; related to 262 and 263.30.
262.26(c)	No direct Federal analog; 262 related.
262.26(e)	No direct Federal analog; 262 related.
262.26(f)	No direct Federal analog; 262 related.
262.26(g)	No direct Federal analog; related to 262, Subpart E, 263.20(g)(4), 264.12(a), and 265.55.
262.32(b)	262.32(b).
262.34(j)	262.34(m).
262.35(a)(2)	261.5 related.
262.41 introductory paragraph—(d) and (g)—(i)	262.41(a) intro.—(a)(4) and (a)(6)—(a)(8).
262.54(c)	262.54(c).
262, Appendix I	262, Appendix I.
264.75(g)—(j)	264.75(g)—(j).
264.316(b)	264.316(b).
264.552(a)(3)(ii)—(iv)	264.552(a)(3)(ii)—(iv).
265.75(g)—(j)	265.75(g)—(j).
265.147(a)(1)(i) & (ii)	265.147(a)(1)(i) & (ii).
265.316(b)	265.316(b).

H. Who handles permits after the authorization takes effect?

This authorization does not affect the status of State permits and those permits issued by the EPA because no new substantive requirements are a part of these revisions.

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

Arkansas is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country.

III. Incorporation by Reference

A. What is codification?

Codification is the process of placing a State’s statutes and regulations that comprise the State’s authorized hazardous waste management program into the CFR. Section 3006(b) of RCRA, as amended, allows the EPA to authorize State hazardous waste management programs to operate in lieu of the Federal hazardous waste management regulatory program. The EPA codifies its authorization of State programs in 40 CFR part 272 and incorporates by reference State statutes and regulations that the EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public’s ability to discern the current status of the authorized State program and State requirements that can be Federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each State.

B. What is the history of codification of Arkansas’ hazardous waste management program?

The EPA incorporated by reference Arkansas’ then authorized hazardous waste program effective December 13, 1993 (58 FR 52674), August 21, 1995 (60 FR 32112), August 27, 2010 (75 FR 36538), December 1, 2014 (79 FR 59438), and March 29, 2016 (81 FR 4961). Note that at 79 FR 59443, the State agency acronym should be referenced as “(ADEQ)” with regard to the State’s Memorandum of Agreement with the EPA. In this document, the EPA is revising subpart E of 40 CFR part 272 to include the authorization revision actions effective October 11, 2016 (81 FR 53025).

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

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Arkansas rules described in the amendments to 40 CFR part 272 set forth below. The EPA has made, and will continue to make, these documents available electronically through <http://www.regulations.gov> and in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

The purpose of this **Federal Register** document is to codify Arkansas’ base hazardous waste management program and its revisions to that program. The document incorporates by reference Arkansas’ hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. By codifying Arkansas’

authorized program and by amending the CFR, the public will be more easily able to discern the status of Federally approved requirements of the Arkansas hazardous waste management program. The EPA is not requesting comments on its decisions published in the **Federal Register** documents referenced in Section I.F of this preamble concerning revisions to the authorized program in Arkansas.

The EPA is incorporating by reference the Arkansas authorized hazardous waste management program in subpart E of 40 CFR part 272. Section 272.201 incorporates by reference Arkansas’ authorized hazardous waste statutes and regulations. Section 272.201 also references the statutory provisions (including procedural and enforcement provisions) which provide the legal basis for the State’s implementation of the hazardous waste management program, the Memorandum of Agreement, the Attorney General’s Statements, and the Program Description, which are approved as part of the hazardous waste management program under Subtitle C of RCRA.

D. What is the effect of Arkansas’ codification on enforcement?

The EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013, and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in authorized States. With respect to these actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than any authorized State analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Arkansas

procedural and enforcement authorities. Section 272.201(c)(2) of 40 CFR lists the statutory and regulatory provisions which provide the legal basis for the State's implementation of the hazardous waste management program, as well as those procedural and enforcement authorities that are part of the State's approved program, but these are not incorporated by reference.

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

The public needs to be aware that some provisions of Arkansas' hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which Arkansas is not authorized, but which have been incorporated into the State regulations because of the way the State adopted Federal regulations by reference;

(3) Unauthorized amendments to authorized State provisions;

(4) New unauthorized State requirements; and

(5) Federal rules for which Arkansas is authorized but which were vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 08–1144, June 27, 2014).

State provisions that are "broader in scope" than the Federal program are not part of the RCRA authorized program and the EPA will not enforce them.

Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.201(c)(3) lists the Arkansas regulatory provisions which are "broader in scope" than the Federal program and which are not part of the authorized program being incorporated by reference. "Broader in scope" provisions cannot be enforced by the EPA; the State, however, may enforce such provisions under State law.

Additionally, Arkansas' hazardous waste regulations include amendments which have not been authorized by the EPA. Since the EPA cannot enforce a State's requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to be precise in delineating the scope of a State's authorized hazardous waste program. Regulatory provisions that have not been authorized by the EPA include amendments to previously authorized State regulations as well as certain Federal rules and new State requirements.

Arkansas has adopted but is not authorized for the following Federal rules published in the **Federal Register** on July 15, 1985 (50 FR 28702), April 12, 1996 (61 FR 16290), and January 8, 2010 (75 FR 1236). Therefore, these Federal amendments included in Arkansas' regulations, are not part of the State's authorized program and are not part of the incorporation by reference addressed by this **Federal Register** action.

Arkansas has adopted and was authorized for the Federal Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas rule which has since been vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 08–1144; June 27, 2014): The gasification exclusion rule was published on January 2, 2008 (73 FR 57) and added 40 CFR 260.10 "Gasification" and revised 40 CFR 261.4(a)(12)(i).

State regulations that are not incorporated by reference in this action at 40 CFR 272.201(c)(1), or that are not listed in 40 CFR 272.201(c)(2) ("legal basis for the State's implementation of the hazardous waste management program"), 40 CFR 272.201(c)(3) ("broader in scope"), or 40 CFR 272.201(c)(4) ("unauthorized State amendments"), are considered new unauthorized State requirements. These requirements are not Federally enforceable.

With respect to any requirement pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized, the EPA will continue to enforce the Federal HSWA standards until the State is authorized for these provisions.

F. What will be the effect of Federal HSWA requirements on the codification?

The EPA is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by the EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) takes effect in authorized and not authorized States at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by the EPA (50 FR 28702, July 15, 1985). The EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are

required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), the EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirement implemented by the EPA. However, until the EPA authorizes those State requirements, the EPA can only enforce the HSWA requirements and not the State analogs. The EPA will not codify those State requirements until the State receives authorization for those requirements.

IV. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This rule incorporates by reference Arkansas' authorized hazardous waste management regulations and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely incorporates by reference certain existing State hazardous waste management program requirements which the EPA already approved under 40 CFR part 271, and with which regulated entities must already comply, it 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).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely incorporates by reference existing State hazardous waste management program

requirements without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000).

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

The requirements being codified are the result of Arkansas’ voluntary participation in the EPA’s State program authorization process under RCRA Subtitle C. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes Federal executive policy on environmental justice. Because this rule codifies pre-existing State rules which are at least equivalent to, and no less stringent than existing federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended 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. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 272

Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 27, 2017.

Samuel Coleman,

Acting Regional Administrator Region 6.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), EPA is granting final authorization under 40 CFR part 271 to the State of Arkansas for revisions to its hazardous waste program under the Resource Conservation and Recovery Act and is amending 40 CFR part 272 as follows.

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

- 1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

- 2. Revise § 272.201 to read as follows:

§ 272.201 Arkansas State-administered program: Final authorization.

(a) *History of the State of Arkansas authorization.* Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Arkansas final authorization for the following elements as submitted to EPA in Arkansas’ Base

program application for final authorization which was approved by EPA effective on January 25, 1985. Subsequent program revision applications were approved effective on May 29, 1990; November 18, 1991; December 4, 1992; December 21, 1994; June 24, 2002; October 15, 2007; August 27, 2010; October 9, 2012, December 1, 2014, December 30, 2014, March 29, 2016, and October 11, 2016, and November 13, 2017.

(b) *Enforcement authority.* The State of Arkansas has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State statutes and regulations.* (1) *Incorporation by reference.* The Arkansas statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Arkansas statutes that are incorporated by reference in this paragraph from LexisNexis, 9443 Springboro Pike, Miamisburg, Ohio 45342; Phone: (800) 833-9844; Web site: <http://www.lexisnexis.com/store/us>. Copies of the Arkansas regulations that are incorporated by reference are available from the Arkansas Department of Environmental Quality (ADEQ) Web site at <http://www.adeq.state.ar.us/regs/default.htm> or the Public Outreach Office, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317; Phone number: (501) 682-0923. You may inspect a copy at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733; Phone number: (214) 665-8533, or 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>.

(i) The binder entitled “EPA-Approved Arkansas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program”, dated October 2016.

(ii) [Reserved]

(2) *Legal basis.* The following provisions provide the legal basis for the State’s implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, as amended by the 2015 Supplement, Title 4, Business and Commercial Law, Chapter 75: Section 4–75–601(4) “Trade Secret”.

(ii) Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, as amended by the 2015 Supplement, Title 8, Environmental Law, Chapter 1: Section 8–1–107.

(iii) Arkansas Hazardous Waste Management Act of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, as amended by the 2015 Supplement, Title 8, Environmental Law, Chapter 7, Subchapter 2: Sections 8–7–204 (except 8–7–204(e)(3)(B)), 8–7–205 through 8–7–214, 8–7–217, 8–7–218, 8–7–220, 8–7–222, 8–7–224, 8–7–225(b) through 8–7–225(d), and 8–7–227.

(iv) Arkansas Resource Reclamation Act of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, as amended by the 2015 Supplement, Title 8, Environmental Law, Chapter 7, Subchapter 3: Sections 8–7–302(3), 8–7–303 and 8–7–308.

(vi) Remedial Action Trust Fund Act of 1985, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, as amended by the 2015 Supplement, Title 8, Environmental Law, Chapter 7, Subchapter 5: Sections 8–7–503(6) and (7), 8–7–505(3), 8–7–507, 8–7–508, 8–7–511 and 8–7–512.

(vii) Arkansas Freedom of Information Act (FOIA) of 1967, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, as amended by the 2015 Supplement, Title 25, State Government, Chapter 19: Sections 25–19–103(1), 25–19–105, 25–19–107.

(viii) Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended September 25, 2015, effective October 18, 2015, Chapter One; Chapter Two, Sections 1, 2, 3(a), 3(b)(3), 4, 260.2, 260.20(c) through (f), 261 Appendix IX, 270.7(h) and (j), 270.10(e)(8), 270.34, 19, Chapter Three, Sections 21 and 22; Chapter Five, Section 28.

(ix) Arkansas Pollution Control and Ecology (APC&E) Commission, Regulation No. 7, Civil Penalties, July 24, 1992.

(x) Arkansas Pollution Control and Ecology (APC&E) Commission, Regulation No. 8, Administrative Procedures, February 12, 2009.

(3) *Related legal provisions.* The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Arkansas Hazardous Waste Management Act, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, as amended by the 2015 Supplement, Title 8, Environmental Law, Chapter 7, Subchapter 2: Section 8–7–226.

(ii) Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended September 25, 2015, effective October 18, 2015, Chapter Two, Sections 6, 262.13(c), 262.26(d), 263.10(e), 263.13, 264.71(e), and 265.71(e).

(4) *Unauthorized State amendments and provisions.* (i) Arkansas has partially or fully adopted, but is not authorized to implement, the Federal rule listed in the following table. The EPA will continue to implement the Federal HSWA requirements for which Arkansas is not authorized until the State receives specific authorization for those requirements.

Federal requirement	Federal Register reference	Publication date
HSWA Codification Rule—Delisting (HSWA) (Checklist 17B—amendments to 40 CFR 260.22 only)	50 FR 28702	July 15, 1985.

(ii) The Federal rules listed in the following table are not delegable to

States. Arkansas has adopted these provisions and left the authority to the

EPA for implementation and enforcement.

Federal requirement	Federal Register reference	Publication date
Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision (HSWA) (Checklist 152).	61 FR 16290	April 12, 1996.
OECD Requirements; Export Shipments of Spent Lead-Acid Batteries (Non-HSWA) (Checklist 222).	75 FR 1236	January 8, 2010.

(5) *Vacated Federal rule.* Arkansas adopted and was authorized by the following Federal rule which has since been vacated by the U.S. Court of Appeals for the District of Columbia

Circuit (D.C. Cir. 08–1144; June 27, 2014). As a result, the Arkansas provisions at Reg. 23, 260.10 “Gasification” and 261.4(a)(12)(i) are no longer considered to be part of the

State’s authorized program. Consistent with the Court’s vacatur, EPA removed the vacated provisions from the CFR on April 8, 2015.

Federal requirement	Federal Register reference	Publication date
Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas (Non-HSWA) (Checklist 216—Definition of “Gasification” at 40 CFR 260.10 and amendment to 40 CFR 261.4(a)(12)(i)).	73 FR 57	January 2, 2008.

(6) *Memorandum of Agreement.* The Memorandum of Agreement between

EPA Region VI and the State of Arkansas, signed by the Executive

Director of the Arkansas Department of Environmental Quality (ADEQ) on June

27, 2012, and by the EPA Regional Administrator on July 10, 2012, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Statement of legal authority.* “Attorney General’s Statement for Final Authorization”, signed by the Attorney General of Arkansas on July 9, 1984 and revisions, supplements, and addenda to that Statement dated September 24, 1987, February 24, 1989, December 11, 1990, May 7, 1992 and by the Independent Legal Counsel on May 10, 1994, February 2, 1996, March 3, 1997, July 31, 1997, December 1, 1997, December 12, 2001, July 27, 2006, December 12, 2010, October 1, 2012, and December 7, 2015 are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(8) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the listing for “Arkansas” to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Arkansas

The statutory provisions include:

Arkansas Hazardous Waste Management Act of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, as amended by the 2015 Supplement, Title 8, Environmental Law, Chapter 7, Subchapter 2; Sections 8-7-202, 8-7-203, 8-7-215, 8-7-216, 8-7-219, 8-7-221, 8-7-223 and 8-7-225(a).

Arkansas Code of 1987 Annotated (A.C.A.), 2011 Replacement, as amended by the 2015 Supplement, Title 8, Environmental Law, Chapter 10, Subchapter 3: Section 8-10-301(d).

Copies of the Arkansas statutes that are incorporated by reference are available from LexisNexis, 9443 Springboro Pike, Miamisburg, Ohio 45342; Phone: (800) 833-9844; Web site: <http://www.lexisnexis.com/store/us>.

The regulatory provisions include:

Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended September 25, 2015 effective October 18, 2015. Please note that the 2015 APC&E Commission Regulation No. 23, is the most recent version of the Arkansas authorized hazardous waste regulations. For a few provisions, the authorized versions are found in the APC&E Commission Regulation 23, effective January 21, 1996, March 23, 2006,

June 13, 2010, or August 12, 2012. Arkansas made subsequent changes to these provisions but these changes have not been authorized by EPA. The provisions from the January 21, 1996, March 23, 2006, June 13, 2010, or August 12, 2012 regulations are noted below.

Chapter Two, Sections 3(b) introductory paragraph; 3(b)(2); 3(b)(4); Section 260—Hazardous Waste Management System—General—260.1; 260.3; 260.10 (except the definitions of “consolidation”, “gasification”, and the phrase “a written permit issued by the Arkansas Highway and Transportation Department authorizing a person to transport hazardous waste (Hazardous Waste Transportation Permit), or” in the definition for “permit”; 260.11; 260.20 (except 260.20(c) through (f); 260.21; 260.23; 260.30 through 260.33; 260.40; and 260.41.

Section 261—Identification and Listing of Hazardous Waste—261.1; 261.2; 261.3; 261.4(a) (except the phrase “gasification (as defined in § 260.10 of this Regulation),” in 261.4(a)(12)(i); 261.4(b) through (h); 261.5; 261.6 (except (a)(5)); 261.7 through 261.11; 261.20 through 261.24; 261.30 through 261.33; 261.35; 261.39 through 261.41; and Appendices I, VII, and VIII.

Section 262—Standards Applicable to Generators of Hazardous Waste—262.10 (except 262.10(d)); 262.11; 262.12; 262.13 (except 262.13(c)); 262.20; 262.22 through 262.25; 262.26 (except 262.26(d)); 262.27; 262.30; 262.31 through 262.35; 262.40; 262.41 (except 262.41(e) and (f)); 262.41(e) (except references to PCBs) (January 21, 1996); 262.42; 262.43; 262.50 through 262.58; 262.60 (except 262.60(e)); 262.70; 262.200 through 262.216; and Appendix I.

Section 263—Standards Applicable to Transporters of Hazardous Waste—263.10 (except 263.10(d) and (e)); 263.11; 263.12; 263.20 (except 263.20(g)(4)); 263.21; 263.22; 263.25; 263.30; and 263.31.

Section 264—Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities—264.1; 264.3; 264.4; 264.10; 264.11; 264.12 (except 264.12(a)(2)); 264.13 through 264.19; 264.20(a) through (c); 264.30 through 264.35; 264.37; 264.50 through 264.56; 264.70; 264.71 (except 264.71(a)(3), (d), and (e)); 264.72 through 264.74; 264.75; 264.76(a); 264.77; 264.90 through 264.101; 264.110 through 264.120; 264.140; 264.141 (except the definition of “captive insurance” at 264.141(f)); 264.142; 264.143 (except the last sentence of 264.143(e)(1)); 264.144; 264.145 (except the last sentence of 264.145(e)(1)); 264.146; 264.147 (except the last sentences of 264.147(a)(1)(i) and 264.147(b)(1)(ii)); 264.148; 264.151; 264.170 through 264.179; 264.190 through 264.200; 264.220 through 264.223; 264.226 through 264.232; 264.250 through 264.254; 264.256 through 264.259; 264.270 through 264.273; 264.276; 264.278 through 264.283; 264.300 through 264.304; 264.309; 264.310; 264.312(a); 264.313; 264.314; 264.314(a)(4) (June 13, 2010); 264.315 through 264.317; 264.340 through 264.345; 264.347; 264.351; 264.550 through 264.555; 264.570 through 264.575; 264.600 through 264.603; 264.1030 through 264.1036; 264.1050 through 264.1065; 264.1080 through 264.1090; 264.1100 through

264.1102; 264.1200 through 264.1202; and Appendices I, IV, V, and IX.

Section 265—Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities—265.1; 265.4; 265.10; 265.11; 265.12 (except 265.12(a)(2)); 265.13 through 265.19; 265.30 through 265.35; 265.37; 265.50 through 265.56; 265.70; 265.71 (except 265.71(a)(3), (d), and (e)); 265.72 through 265.75; 265.76(a); 265.77; 265.90 through 265.94; 265.110 through 265.121; 265.140; 265.141 (except the definition of “captive insurance” at 265.141(f)); 265.142; 265.143 (except the last sentence of 265.143(d)(1)); 265.144; 265.145; 265.146; 265.147 (except the last sentences of 265.147(a)(1) and 265.147(b)(1)); 265.148; 265.170 through 265.174; 265.176 through 265.178; 265.190 through 265.202; 265.220 through 265.226; 265.228 through 265.231; 265.250 through 265.260; 265.270; 265.272; 265.273; 265.276; 265.278 through 265.282; 265.300 through 265.304; 265.309; 265.310; 265.312(a); 265.313; 265.314; 265.314(a)(4) (March 23, 2006); 265.315; 265.316; 265.340; 265.341; 265.345; 265.347; 265.351; 265.352; 265.370; 265.373; 265.375; 265.377; 265.381 through 265.383; 265.400 through 265.406; 265.430; 265.440 through 265.445; 265.1030 through 265.1035; 265.1050 through 265.1064; 265.1080 through 265.1090; 265.1100 through 265.1102; 265.1200 through 265.1202; Appendix I; and Appendices III through VI.

Section 266—Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities—266.20 through 266.23; 266.70(a); 266.70(b) introductory paragraph through (b)(2) (August 12, 2012); 266.70(c) and (d); 266.80 (except items 6 and 7 to the 266.80(a) table); 266.100 through 266.112; 266.200 through 266.206; 266.210; 266.220; 266.225; 266.230; 266.235; 266.240; 266.245; 266.250; 266.255; 266.260; 266.305; 266.310; 266.315; 266.320; 266.325; 266.330; 266.335; 266.340; 266.345; 266.350; 266.355; 266.360; and Appendices I through XIII.

Section 267—Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit—267.1 through 267.3; 267.10 through 267.18; 267.30 through 267.36; 267.50 through 267.58; 267.70 through 267.76; 267.90; 267.101; 267.110 through 267.113; 267.115 through 267.117; 267.140 through 267.143; 267.147 through 267.151; 267.170 through 267.177; 267.190 through 267.204; and 267.1100 through 267.1108.

Section 268—Land Disposal Restrictions—268.1; 268.2 through 268.4, 268.7; 268.9; 268.13; 268.14; 268.20, 268.30 through 268.39; 268.40 (except 268.40(e)(1)—(4) and 268.40(j)); 268.41; 268.42 (except 268.42(b)); 268.43; 268.45; 268.46; 268.48 through 268.50; and Appendices III, IV, VI through IX and XI.

Section 270—Administered Permit Programs: The Hazardous Waste Permit Program—270.1 through 270.6; 270.7 (except 270.7(h) and (j)); 270.10 (except 270.10(e)(8)); 270.11 through 270.33; 270.40; 270.41; 270.42; 270.42 Appendix I; 270.43; 270.50; 270.51; 270.60 through 270.68; 270.70 through 270.73; 270.79; 270.80; 270.85; 270.90; 270.95; 270.100; 270.105; 270.110;

270.115; 270.120; 270.125; 270.130; 270.135; 270.140; 270.145; 270.150; 270.155; 270.160; 270.165; 270.170; 270.175; 270.180; 270.185; 270.190; 270.195; 270.200; 270.205; 270.210; 270.215; 270.220; 270.225; 270.230; 270.235; 270.250; 270.255; 270.260; 270.270; 270.275; 270.280; 270.290; 270.300; 279.305; 270.310; 270.315; and 270.320.

Section 273—Standards for Universal Waste Management—273.1 through 273.4; 273.5 (except 273.5(b)(3)); 273.6; 273.8 through 273.20; 273.30 through 273.40; 273.50 through 273.56; 273.60; 273.61; 273.62; 273.70 (except 273.70(d)); 273.80; and 273.81.

Section 279—Standards for the Management of Used Oil—279.1; 279.10; 279.11; 279.12; 279.20 through 279.24; 279.30 through 279.32; 279.40 through 279.47; 279.50 through 279.67; 279.70 through 279.75; 279.80; 279.81; and 279.82(a).

Copies of the Arkansas regulations that are incorporated by reference are available from the Arkansas Department of Environmental Quality Web site at <http://www.adeq.state.ar.us/regs/default.htm> or the Public Outreach Office, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118–5317, Phone: (501) 682–0923.

* * * * *

[FR Doc. 2017–18874 Filed 9–13–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140902739–5224–02]

RIN 0648–XF672

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fishery; 2017 Illex Squid Quota Harvested

Correction

In rule document 2017–19208 appearing on page 42610 in the issue of Monday, September 11, 2017, make the following corrections:

1. In the first column, under the **SUMMARY** heading, in the fourth line “September 1, 2017” should read “September 15, 2017”.
2. In the first column, under the **DATES** heading, in the second line “September 1, 2017” should read “September 15, 2017”.
3. In the second column, in the first full paragraph, in the seventh, eighth, sixteenth and twenty sixth line “September 1, 2017” should read “September 15, 2017”.

[FR Doc. C1–2017–19208 Filed 9–13–17; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 161017970–6999–02]

RIN 0648–XF651

Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2017 Winter II Quota

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS adjusts the 2017 Winter II commercial scup quota and per trip Federal landing limit. This action is intended to comply with Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan that established the rollover of unused commercial scup quota from the Winter I period to the Winter II period. This notice is intended to inform the public of this quota and trip limit change.

DATES: Effective November 1, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281–9180.

SUPPLEMENTARY INFORMATION: NMFS published a final rule in the **Federal Register** on November 3, 2003 (68 FR 62250), implementing a process to roll over unused Winter I commercial scup quota (January 1 through April 30) to be added to the Winter II period quota (November 1 through December 31). This framework also allows adjustment of the commercial possession limit for the Winter II period dependent on the amount of quota rolled over from the Winter I period.

For 2017, the initial Winter II quota is 2,929,762 lb (1,329 mt). The best available landings information indicates that 2,231,152 lb (1,012 mt) remain of the 8,291,190 lb (3,761 mt) of Winter I quota. Consistent with Framework 3, the full amount of unused 2017 Winter I quota is being transferred to Winter II, resulting in a revised 2017 Winter II quota of 5,160,914 lb (2,341 mt). Because the amount transferred is greater than 2,000,000 lb (907 mt), the Federal per trip possession limit will increase from 12,000 lb (5,443 kg) to 18,000 lb (8,165 kg), as outlined in the final rule that established the possession limit and quota rollover procedures for

this year, published on December 28, 2015 (80 FR 80689).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this in-season adjustment because it would be contrary to the public interest. If implementation of this in-season action is delayed to solicit prior public comment, the objective of the fishery management plan to achieve the optimum yield from the fishery could be compromised; deteriorating weather conditions during the latter part of the fishing year will reduce fishing effort and could prevent the annual quota from being fully harvested. This would conflict with the agency’s legal obligation under the Magnuson-Stevens Fishery Conservation and Management Act to achieve the optimum yield from a fishery on a continuing basis, resulting in a negative economic impact on vessels permitted to fish in this fishery. Moreover, the rollover process and potential changes in trip limits were already outlined in the 2016 to 2018 specifications published December 28, 2015, that were provided for notice and comment rulemaking.

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

Dated: September 8, 2017.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–19464 Filed 9–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 161222999–7413–01]

RIN 0648–XF610

Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #5 Through #11

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

ACTION: Modification of fishing seasons.

SUMMARY: NMFS announces seven inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial and recreational salmon fisheries in the area from the U.S./Canada border to the U.S./Mexico border.

DATES: The effective dates for the inseason actions are set out in **SUPPLEMENTARY INFORMATION** under the heading Inseason Actions.

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206-526-4323.

SUPPLEMENTARY INFORMATION:

Background

In the 2017 annual management measures for ocean salmon fisheries (82 FR 19630, April 28, 2017), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada border to the U.S./Mexico border, beginning May 1, 2017, and 2018 salmon fisheries opening earlier than May 1, 2018. NMFS is authorized to implement inseason management actions to modify fishing seasons and quotas as necessary to provide fishing opportunity while meeting management objectives for the affected species (50 CFR 660.409). Inseason actions in the salmon fishery may be taken directly by NMFS (50 CFR 660.409(a)—Fixed inseason management provisions) or upon consultation with the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)—Flexible inseason management provisions). The state management agencies that participated in the consultations described in this document were: California Department of Fish and Wildlife (CDFW), Oregon Department of Fish and Wildlife (ODFW), and Washington Department of Fish and Wildlife (WDFW).

Management of the salmon fisheries is generally divided into two geographic areas: North of Cape Falcon (U.S./Canada border to Cape Falcon, OR) and south of Cape Falcon (Cape Falcon, OR, to the U.S./Mexico border). The inseason actions reported in this document affected fisheries north and south of Cape Falcon. All times mentioned refer to Pacific daylight time.

Inseason Actions

Inseason Action #5

Description of action: Inseason action #5 removed the landing and possession limit for Chinook salmon in the spring commercial salmon fishery from the U.S./Canada border to the Queets River, WA, which was previously set at 60 Chinook per vessel per week.

Effective dates: Inseason action #5 took effect on June 21, 2017, and remained in effect through June 30, 2017, the end of the spring fishery.

Reason and authorization for the action: The purpose of this action was to increase access to the available quota, as Chinook landings in the affected area were well below the level anticipated preseason. The Regional Administrator (RA) considered fishery effort and Chinook landings to date, and determined that this inseason action was necessary to meet the management objectives set preseason. Inseason actions to modify limited retention regulations are authorized by 50 CFR 660.409(b)(1)(ii).

Consultation date and participants: Consultation on inseason action #5 occurred on June 20, 2017. Representatives from NMFS, WDFW, ODFW, and the Council participated in this consultation.

Inseason Action #6

Description of action: Inseason action #6 extended the retention of Pacific halibut caught incidental to the commercial salmon fishery from the U.S./Canada border to the U.S./Mexico border, previously scheduled to end July 1, 2017. Inseason action #6 also changed the landing and possession ratio from one Pacific halibut per each two Chinook, to one Pacific halibut per each four Chinook, and changed the landing limit from 35 Pacific halibut per trip, to 10 Pacific halibut per trip.

Effective dates: Inseason action #6 took effect on July 1, 2017, and remained in effect until superseded by inseason action #10 on August 4, 2017.

Reason and authorization for the action: The purpose of this action was to allow access to remaining Pacific halibut allocation without exceeding the allocation. The RA considered fishery effort and Chinook and halibut landings to date, and determined that this inseason action was necessary to meet the management goals set preseason. Inseason actions to modify quotas and/or fishing seasons are authorized by 50 CFR 660.409(b)(1)(i), and inseason actions to modify limited retention regulations are authorized by 50 CFR 660.409(b)(1)(ii).

Consultation date and participants: Consultation on inseason action #6 occurred on June 20, 2017. Representatives from NMFS, WDFW, ODFW, CDFW, and the Council participated in this consultation.

Inseason Action #7

Description of action: Inseason action #7 increased the landing and possession limit for Chinook salmon in the summer

commercial salmon fishery from the U.S./Canada border to Queets River, WA, from 60 Chinook per vessel per open period to 75 Chinook per vessel per open period.

Effective dates: Inseason action #7 took effect on July 21, 2017, and remains in effect through the end of the season, or until superseded by further inseason action.

Reason and authorization for the action: The purpose of this action was to increase access to the available quota, as Chinook landings in the affected area were well below the level anticipated preseason. The RA considered Chinook landings to date and fishery effort, and determined that this inseason action was necessary to meet the management objectives set preseason. Inseason actions to modify limited retention regulations are authorized by 50 CFR 660.409(b)(1)(ii).

Consultation date and participants: Consultation on inseason action #7 occurred on July 19, 2017. Representatives from NMFS, WDFW, ODFW, and the Council participated in this consultation.

Inseason Action #8

Description of action: Inseason action #8 increased the landing and possession limit for Chinook salmon in the summer commercial salmon fishery from the Queets River, WA, to Cape Falcon, OR, from 75 Chinook per vessel per open period to 150 Chinook per vessel per open period, and changed the open period from five days per week to seven days per week.

Effective dates: Inseason action #8 took effect on July 21, 2017, and remains in effect through the end of the season, or until superseded by further inseason action.

Reason and authorization for the action: The purpose of this action was to increase access to the available quota, as Chinook landings in the affected area were well below the level anticipated preseason. The RA considered Chinook landings to date and fishery effort, and determined that this inseason action was necessary to meet the management objectives set preseason. Inseason actions to modify quotas and/or fishing seasons are authorized by 50 CFR 660.409(b)(1)(i) and inseason actions to modify limited retention regulations are authorized by 50 CFR 660.409(b)(1)(ii).

Consultation date and participants: Consultation on inseason action #8 occurred on July 19, 2017. Representatives from NMFS, WDFW, ODFW, and the Council participated in this consultation.

Inseason Action #9

Description of action: Inseason action #9 modified the daily bag limit in the recreational fishery from Queets River, WA, to Leadbetter Point, WA, to allow retention of two fish per day, both of which could be Chinook; previously, the bag limit was two fish per day, only one of which could be a Chinook.

Effective dates: Inseason action #9 took effect July 22, 2017, and remains in effect through the end of the season, or until superseded by further inseason action.

Reason and authorization for the action: The purpose of this action was to increase access to the available quota, as Chinook landings in the affected area were well below the level anticipated pre-season. The RA considered Chinook landings to date and fishery effort, and determined that this inseason action was necessary to meet the management objectives set pre-season. Inseason actions to modify recreational bag limits are authorized by 50 CFR 660.409(b)(1)(iii).

Consultation date and participants: Consultation on inseason action #9 occurred on July 19, 2017. Representatives from NMFS, WDFW, ODFW, and the Council participated in this consultation.

Inseason Action #10

Description of action: Inseason action #10 closed retention of Pacific halibut caught incidental to the commercial salmon fishery from the U.S./Canada border to the U.S./Mexico border.

Effective dates: Inseason action #10 superseded inseason action #6 on August 4, 2017 and remains in effect through the end of the 2017 commercial salmon fishing season.

Reason and authorization for the action: This action was taken due to attainment of the 2017 Pacific halibut allocation authorized by the International Pacific Halibut Commission. The RA considered Pacific halibut landings to date, which indicated that approximately two percent of the allocation remained uncaught, and determined this was insufficient to allow halibut retention to continue without risk of exceeding the allocation. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #10 occurred on August 3, 2017. Representatives from NMFS, WDFW,

ODFW, CDFW, and the Council participated in this consultation.

Inseason Action #11

Description of action: Inseason action #11 rolled over unused Chinook quota from the spring commercial salmon fishery north of Cape Falcon, OR, to the summer commercial salmon fishery north of Cape Falcon, OR. This action added 2,205 Chinook to the summer quota set pre-season at 18,000, resulting in an adjusted summer quota of 20,205 for the area north of Cape Falcon. Additionally, inseason action #11 increased the subarea guideline for the commercial salmon fishery from the U.S./Canada border to Queets River, WA, from 7,200 to 10,870.

Effective dates: Inseason action #11 took effect August 3, 2017 and remains in effect through the end of the 2017 commercial salmon season.

Reason and authorization for the action: The purpose of this action was to allow increased access to available Chinook quota. The Council's Salmon Technical Team (STT) calculated impacts on salmon stocks from the spring and summer fisheries, and advised that the transfer of quota would not result in increased impacts on affected salmon stocks and would not affect the overall quota set for commercial salmon fisheries north of Cape Falcon for 2017. The RA considered the report of the STT and the commercial salmon landings for the spring and summer seasons to date, and determined that this inseason action was necessary to meet the management objectives set pre-season. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #11 occurred on August 3, 2017. Representatives from NMFS, WDFW, ODFW, CDFW, and the Council participated in this consultation.

All other restrictions and regulations remained in effect as announced for the 2017 ocean salmon fisheries and 2018 salmon fisheries opening prior to May 1, 2018 (82 FR 19631, April 28, 2017) and as modified by prior inseason actions.

The RA determined that the best available information indicated that Chinook salmon abundance forecasts, Chinook and halibut landings, and expected fishery effort supported the above inseason actions recommended by the states of Washington, Oregon, and California. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic

zone in accordance with these federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the time the action was effective, by telephone hotline numbers 206-526-6667 and 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (82 FR 19631, April 28, 2017), the Pacific Coast Salmon Fishery Management Plan (FMP), and regulations implementing the FMP, 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time Chinook salmon and halibut catch and effort projections were developed and fisheries impacts were calculated, and the time the fishery modifications had to be implemented in order to ensure that fisheries are managed based on the best available scientific information, ensuring that conservation objectives and Endangered Species Act consultation standards are not exceeded. The AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the FMP and the current management measures.

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: September 8, 2017.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017-19475 Filed 9-13-17; 8:45 am]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 82, No. 177

Thursday, September 14, 2017

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0874; Product Identifier 2015-SW-082-AD]

RIN 2120-AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S-76C helicopters. This proposed AD would require inspecting the engine collective position transducer (CPT). This proposed AD is prompted by reports of wear of the CPT that has resulted in several One Engine Inoperative (OEI) incidents. The proposed actions are intended to detect and prevent an unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 13, 2017.

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

- *Federal eRulemaking Docket:* Go to <http://www.regulations.gov>. Follow the online instructions for sending your comments electronically.
- *Fax:* 202-493-2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.
- *Hand Delivery:* Deliver to the "Mail" address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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-2017-0874; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Sikorsky Aircraft Corporation, Customer Service Engineering, 124 Quarry Road, Trumbull, CT 06611; telephone 1-800-Winged-S or 203-416-4299; email wcs_cust_service_eng.gr-sik@lmco.com. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Nick Rediess, Aviation Safety Engineer, Boston ACO Branch, Compliance and Airworthiness Division, 1200 District Avenue, Burlington, MA 01803; telephone (781) 238-7159; email nicholas.rediess@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after

the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

We propose to adopt a new AD for Sikorsky Model S-76C helicopters with a Turbomeca, S.A., Arriel 2S1 or Arriel 2S2 engine and with a CPT part number (P/N) 76900-01821-104 installed. This proposed AD is prompted by 20 reports of One Engine Inoperative (OEI) incidents resulting from wear of a CPT. One of these incidents resulted in a rejected takeoff to an unprepared site. A CPT provides signals to the Digital Engine Control Units (DECU) to anticipate power demand. A worn CPT can send an erroneous signal to the DECU. This condition can cause a power split between the two engines and a subsequent OEI condition, which can result in an emergency landing.

Accordingly, this proposed AD would require initial and recurring inspections of the CPTs, and depending on the outcome of the inspections, replacing the CPT. The proposed actions are intended to detect wear of a CPT prior to it causing an OEI condition and possible emergency landing.

FAA's Determination

We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of the same type designs.

Related Service Information Under 14 CFR Part 51

We reviewed Sikorsky S-76 Helicopter Alert Service Bulletin (ASB) 76-73-8, Revision A, dated December 4, 2015 (ASB 76-73-8A), which specifies a one-time inspection of total resistance, linearity resistant movement, excitation voltage, and differential voltage of the CPTs using CPT Text Box P/N 76700-40009-042.

We also reviewed Sikorsky Maintenance Manual, SA 4047-76C-2, Temporary Revision No. 73-07, dated August 17, 2016 (TR 73-07), which specifies procedures for removing, installing, and adjusting the CPTs, and inspections of total resistance, linearity resistant movement, excitation voltage, and differential voltage of the CPTs. TR 73-07 also divides the procedures by

CPT Test Box P/N by providing separate procedures for test boxes modified by Sikorsky Special Service Instructions (SSI) No. 76-96, dated August 19, 2016, which is not incorporated by reference in this proposed AD.

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.

Other Related Service Information

We reviewed Sikorsky S-76 Helicopter ASB 76-73-8, Basic Issue, dated August 21, 2015 (ASB 76-73-8). ASB 76-73-8 contains the same procedures as ASB 76-73-8A; however, ASB 76-73-8A updates Sikorsky's contact information for submitting a purchase order.

We also reviewed Sikorsky SA 4047-76C-2-1, Temporary Revision No. 5-181, dated August 21, 2015 (TR 5-181); Task 5-20-00 of Sikorsky Airworthiness Limitations and Inspection Requirements, Publication No. SA 4047-76C-2-1, Revision 24, dated December 15, 2015 (Task 5-20-00); and Section 73-22-04 of Chapter 73 Engine Fuel and Control, of Sikorsky Maintenance Manual, SA 4047-76C-2, Revision 31, dated December 15, 2015 (Section 73-22-04). TR 5-181 specifies adding CPT inspections referenced in Section 73-22-04 to the 300-hour inspection checklist contained in Task 5-20-00.

We reviewed Sikorsky Safety Advisory No. SSA-S76-11-0002, dated May 17, 2011. This service information provides precautionary instructions to minimize hazardous situations that might result from an unreliable CPT.

We reviewed Sikorsky SSI No. 76-96, dated August 19, 2016, which specifies procedures to modify CPT Test Box P/N 76700-40009-042 and re-identify it as P/N 76700-40009-043. This one-time modification reduces the instructions to inspect the CPT and improves the inspection accuracy.

We also reviewed Sikorsky SSI No. 76-87, dated July 24, 2015, and SSI No. 76-87A, Revision A, dated August 21, 2015. These SSIs specify a one-time inspection of total resistance, linearity resistant movement, excitation voltage, and differential voltage of the CPTs using CPT Text Box P/N 76700-40009-042.

Proposed AD Requirements

This proposed AD would require initial and recurring inspections of each CPT by measuring resistance, linearity resistance movement, and differential voltage, and depending on the outcome of the inspections, replacing the CPT.

Differences Between This Proposed AD and the Service Information

Sikorsky ASB 76-73-8A and TR 73-07 specify using and returning Sikorsky's CPT data sheet to Sikorsky. This proposed AD would not require using Sikorsky's CPT data sheet or returning a data sheet to Sikorsky. TR 73-07 specifies adjusting the CPT transducers. This proposed AD would not require adjusting the CPT transducers. TR 73-07 specifies returning a failed CPT to Sikorsky. This proposed AD would not require returning a failed CPT to Sikorsky.

Interim Action

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

Costs of Compliance

We estimate that this proposed AD would affect 90 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at \$85 per work-hour. The inspections would take about 3.75 work-hours for an estimated cost of \$319 per helicopter and \$28,710 for the U.S. fleet per inspection cycle. Replacing a CPT would take about 6 work-hours and parts would cost \$3,072 for an estimated replacement cost of \$3,582.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this proposed AD would not have federalism implications

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

For the reasons discussed, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Sikorsky Aircraft Corporation: Docket No. FAA-2017-0874; Product Identifier 2015-SW-082-AD.

(a) Applicability

This AD applies to Sikorsky Aircraft Corporation Model S-76C helicopters, certificated in any category, with a Turbomeca, S.A., Arriel 2S1 or Arriel 2S2 engine with an engine collective position transducer (CPT) part number 76900-01821-104 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of a CPT. This condition could result in a reduction in power to one engine resulting in an unannounced One Engine Inoperative (OEI) condition and subsequent emergency landing.

(c) Comments Due Date

We must receive comments by November 13, 2017.

(d) Compliance

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

(e) Required Actions

(1) Within 130 hours time-in-service (TIS):

(i) Measure resistance of each engine CPT and replace the CPT if the measured resistance is not within tolerance by following the Accomplishment Instructions, paragraphs 3.C.(1) through 3.C.(8)(b), of Sikorsky S-76 Helicopter Alert Service Bulletin ASB 76-73-8, Revision A, dated December 4, 2015 (ASB 76-73-8A), except you are not required to use Sikorsky's CPT data sheet or submit a data sheet to Sikorsky.

(ii) Measure the linearity resistance movement of each engine CPT and replace the CPT if there is a linear abnormality or change in resistance that is not within tolerance by following the Accomplishment Instructions, paragraphs 3.D.(1) through D.(14)(b), of ASB 76-73-8A, except you are not required to use Sikorsky's CPT data sheet or submit a data sheet to Sikorsky. Examples of linear abnormalities are depicted in Figure 3 of ASB 76-73-8A.

(iii) Measure the differential voltage of each engine CPT and replace the CPT if the measured voltage is not within tolerance by following the Accomplishment Instructions, paragraphs 3.E. through 3.G.(1) of ASB 76-73-8A, except you are not required to use Sikorsky's CPT data sheet or submit a data sheet to Sikorsky.

(2) Thereafter, at intervals not to exceed 300 hours TIS:

(i) For helicopters using Test Box P/N 76700-40009-042:

(A) Measure resistance of each engine CPT and replace the CPT if the resistance is not within tolerance by following paragraphs 4.B.(11) of Sikorsky Maintenance Manual, SA 4047-76C-2, Temporary Revision No. 73-07, dated August 17, 2016 (TR 73-07), except you are not required to use Sikorsky's CPT data sheet or return a failed CPT to Sikorsky.

(B) Measure the linearity resistance movement of each engine CPT and replace the CPT if the movement exceeds tolerance by following paragraphs 4.B.(12)(a) through 4.B.(13)(f) of TR 73-07, except you are not required to use Sikorsky's CPT data sheet or return a failed CPT to Sikorsky.

(C) Measure the differential voltage of each CPT by following paragraphs 4.B.(14) through 4.B.(15)(h) of TR 73-07, except you are not required to use Sikorsky's CPT data sheet. If the maximum voltage is greater than 100 millivolts or the minimum voltage is less than -100 millivolts, replace the CPT.

(ii) For helicopters using Test Box P/N 76700-40009-043:

(A) Measure resistance of each engine CPT and replace the CPT if the resistance is not within tolerance by following paragraph 5.B.(11) of TR 73-07, except you are not required to use Sikorsky's CPT data sheet or return a failed CPT to Sikorsky.

(B) Measure the resistance linearity of each engine CPT and replace the CPT if the

resistance is not within tolerance by following paragraph 5.B.(12) of TR 73-07, except you are not required to use Sikorsky's CPT data sheet or return a failed CPT to Sikorsky.

(C) Measure the differential voltage of each engine CPT and replace the CPT if the resistance is not within tolerance by following paragraphs 5.B.(13)(a) through B.(13)(k) of TR 73-07, except you are not required to use Sikorsky's CPT data sheet or return a failed CPT to Sikorsky.

(f) Credit for Previous Actions

Actions accomplished before the effective date of this AD in accordance with the procedures specified in Sikorsky S-76 Helicopter Alert Service Bulletin ASB 76-73-8, Basic Issue, dated August 21, 2015; Sikorsky Special Service Instruction SSI No. 76-87, dated July 24, 2015; or Sikorsky Special Service Instruction SSI No. 76-87, Revision A, dated August 21, 2015, are considered acceptable for compliance with the corresponding actions specified in paragraph (e)(1) of this AD.

(g) Alternative Methods of Compliance (AMOC)

(1) The Manager, Boston ACO Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Nick Rediess, Aviation Safety Engineer, Boston ACO Branch, Compliance and Airworthiness Division, 1200 District Avenue, Burlington, MA 01803; telephone (781) 238-7159; email nicholas.rediess@faa.gov.

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

(h) Additional Information

Sikorsky S-76 Helicopter Alert Service Bulletin ASB 76-73-8, Basic Issue, dated August 21, 2015; Sikorsky SA 4047-76C-2-1, Temporary Revision No. 5-181, dated August 21, 2015; Task 5-20-00 of Sikorsky Airworthiness Limitations and Inspection Requirements, Publication No. SA 4047-76C-2-1, Revision 24, dated December 15, 2015; Section 73-22-04 of Chapter 73 Engine Fuel and Control, of Sikorsky Maintenance Manual, SA 4047-76C-2, Revision 31, dated December 15, 2015; Sikorsky Safety Advisory No. SSA-S76-11-0002, dated May 17, 2011; Sikorsky Special Service Instruction (SSI) No. 76-96, dated August 19, 2016; Sikorsky SSI No. 76-87, dated July 24, 2015; and Sikorsky SSI No. 76-87, Revision A, dated August 21, 2015, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Sikorsky Aircraft Corporation, Customer Service Engineering, 124 Quarry Road, Trumbull, CT 06611; telephone 1-800-Winged-S or 203-416-4299; email wcs_cust_service_eng_gr-sik@lmco.com. You may review a copy of information at the FAA, Office of the Regional Counsel, Southwest

Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 7600, Engine Controls.

Issued in Fort Worth, Texas, on September 6, 2017.

Scott A. Horn,

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

[FR Doc. 2017-19450 Filed 9-13-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 573**

[Docket No. FDA-2017-F-4511]

Arcadia Biosciences, Inc.; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Petition for rulemaking.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that Arcadia Biosciences, Inc. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of gamma-linolenic acid (GLA) safflower oil as a source of omega-6 fatty acids in dry food for adult cats in the maintenance life stage.

DATES: The food additive petition was filed on May 1, 2017.

ADDRESSES: For access to the docket, 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: Carissa Doody, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-402-6283, carissa.doody@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2302) has been filed by Arcadia Biosciences Inc., 202 Cousteau Pl., Suite 200, Davis, CA 95618. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 (21 CFR part 573) *Food Additives Permitted in Feed and*

Drinking Water of Animals to provide for the safe use of GLA safflower oil as a source of omega-6 fatty acids in dry food for adult cats in the maintenance life stage.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that to their knowledge, no extraordinary circumstances exist. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: September 8, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-19491 Filed 9-13-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[Docket No. FHWA-2017-0030]

Definition of Automobile Transporter

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Request for comments.

SUMMARY: This document requests comments on including non-cargo-carrying tractor-high mount automobile semi-trailer combination in the definition of automobile transporter in the FHWA's guidance.

DATES: Comments must be received on or before October 16, 2017.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., W12-140, Washington, DC 20590-0001.
- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329.

• *Instructions:* You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to <http://www.regulations.gov> including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For questions about the Definition of Automobile Transporters, contact Crystal Jones, FHWA Office of Freight Management and Operations, (202) 366-2976, or by email at Crystal.Jones@dot.gov. For legal questions, please contact William Winne, FHWA Office of the Chief Counsel, (202) 366-1397, or by email at William.Winne@dot.gov. Business hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may retrieve a copy of the notice through the Federal eRulemaking portal at: <http://www.regulations.gov>. The Web site is available 24 hours each day, every day of the year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: http://www.archives.gov/federal_register and the Government Publishing Office's Web page at: <http://www.gpoaccess.gov>.

Background

Federal laws and regulations pertaining to vehicles that are classified as automobile transporters, and providing for a minimum vehicle length and allowable overhang lengths for these configurations, support the safe and efficient movement of autos by truck through States and across State lines. In accordance with 49 U.S.C. 31111(a)(1) and 23 CFR 658.5, the term "automobile transporter" means any vehicle combination designed and used for the transport of assembled highway vehicles, including truck camper units. Federal regulations classify automobile transporters as specialized equipment and identify three possible configurations of automobile transporters: Traditional, "low boys," and stinger steered. 23 CFR 658.13(e)(1)(i). As provided in 23 CFR 658.13(e), and in the definition of a "Tractor or Truck Tractor" at 23 CFR 658.5, automobile transporters may carry vehicles on the power unit behind the cab and on an over-cab rack.

If a vehicle is classified as an automobile transporter, no State shall impose an overall length limitation of

less than 65 feet on traditional automobile transporters, including "low boys," or less than 80 feet on stinger-steered automobile transporters. 49 U.S.C. 31111(b)(1)(G). All length provisions regarding automobile transporters are exclusive of front and rear cargo overhang. For traditional automobile transporters, no State shall impose a front overhang limitation of less than 3 feet or a rear overhang limitation of less than 4 feet. 23 CFR 658.13(e)(1)(ii). For stinger-steered automobile transporters, no State shall impose a front overhang limitation of less than 4 feet or a rear overhang limitation of less than 6 feet. 49 U.S.C. 31111(b)(1)(G).

Other truck tractor-semitrailer combinations (not specifically defined as automobile transporters) are subject to the length provisions of 23 CFR 658.13(c). Under this regulatory provision, States determine the maximum length limits for semitrailers operating in a truck tractor-semitrailer combination; but no State shall prohibit the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in such State on December 1, 1982, as set out in appendix B to 23 CFR 658.

It is a longstanding FHWA policy position, established through guidance, that to qualify as an automobile transporter as defined in 49 U.S.C. 31111(a)(1) and be treated as specialized equipment as described in 23 CFR 658.13(e)(1)(i), both traditional and stinger-steered automobile transporter combinations must be capable of carrying cargo on the power unit/tractor. Because a truck-tractor in high-mount, truck-tractor-semitrailer combination is not capable of carrying vehicles on the power unit, FHWA's current policy interpretation is that such a vehicle combination may not be considered an automobile transporter subject to the length allowances in 23 CFR 658.13(e)(1)(ii).

In response to the recent inquiries, FHWA has considered the definitions and length provisions that apply to automobile transporters and language in the Surface Transportation Act of 1982 section 411(f), which states "a tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit," and finds that it may be within the Department's current legislative authority to interpret this language to include auto transporter combinations that are not capable of carrying vehicles on the power unit, such as a high-mount, truck-tractor-semitrailer combination, without additional action from Congress.

Defining the high-mount combination as an automobile transporter would trigger the use of the same length allowances that currently apply to a traditional automobile transporter. In doing so, Federal laws would govern the operation of this vehicle on certain roadways, and no State would be able to impose an overall length limitation of less than 65 feet or a front overhang limitation of less than 3 feet or a rear overhang limitation of less than 4 feet for this vehicle combination.

Purpose of the Request

The FHWA is requesting comments from affected stakeholders and the public regarding interpreting the statutory and regulatory language to include a high-mount, truck-tractor-semitrailer combination as an automobile transporter and treating the combination as specialized equipment. Comments are requested on the following questions related to defining a high-mount, truck-tractor-semitrailer combination as an automobile transporter:

- How will the inclusion of a high-mount, truck-tractor-semitrailer combination in the definition of automobile transporter impact the flow of Interstate commerce?
- Are there safety issues with a high-mount, truck-tractor-semitrailer combination as an automobile transporter as it relates to the operation of this vehicle configuration on the National Network?
- What are implementation implications (e.g. roadside enforcement and changes to State laws) if Federal versus State laws would govern the operation of this vehicle configuration on the National Network?
- What State laws are currently in place regarding a highmount, truck-tractor-semitrailer combination? Please provide legal citations, if applicable.
- Are there States that allow the high-mount, truck-tractor-semitrailer combination to operate under the same length provisions as a traditional automobile transporter?
- Is there any other information relating to safety, vehicle productivity, or infrastructure preservation relevant to these questions?

Authority: 49 U.S.C. 31111 and Section 411 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424)

Issued on: September 7, 2017.

Brandye L. Hendrickson,
Acting Administrator.

[FR Doc. 2017-19516 Filed 9-13-17; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 30

[178A2100DD/AAKC001030/
AOA501010.999900 253G]

Bureau of Indian Education Standards, Assessments, and Accountability System Negotiated Rulemaking Committee Establishment; Nominations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Request for nominations and notice of intent to establish committee.

SUMMARY: The U.S. Department of the Interior is announcing its intent to establish the Bureau of Indian Education (BIE) Standards, Assessments, and Accountability System Negotiated Rulemaking Committee (Committee) to advise the Secretary of the Interior (Secretary) through the BIE on a proposed rule to revise the Adequate Yearly Progress regulation and invite Tribes whose students attend BIE-funded schools operated by either the BIE or by the Tribe through a contract or grant who would be affected by the final rule to nominate a representative for membership on the Committee. The BIE also invites nominations for Committee members who will adequately represent the interests that are likely to be significantly affected by the proposed rule such as: Students enrolled, or parents of students enrolled at the 174 BIE-funded schools, school teachers and administrators, Tribes, and Indian communities served by these schools. The BIE also solicits comments on the proposal to establish the Committee.

DATES: Comments regarding the intent to establish this Committee and nominations for Committee members must be submitted no later than October 16, 2017.

ADDRESSES: Send written comments to Ms. Juanita Mendoza, Bureau of Indian Education, by any of the following methods:

- (Preferred method) Email to: BIEdcomments@bia.gov;
- Mail, hand-carry or use an overnight courier service to Ms. Juanita Mendoza, Bureau of Indian Education, 1849 C Street NW., Mail Stop 4657, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Mendoza, Bureau of Indian Education; telephone: (202) 208-3559.

SUPPLEMENTARY INFORMATION:

I. Background

In 2005, BIA promulgated regulations at 25 CFR part 30 that require BIE to use the accountability system of the State in which a BIE-funded school is located. There are BIE-funded schools in 23 different States; and each State has its own accountability system. As a result, each State system produced student achievement data that cannot be directly compared with data from other States. This created problems for the BIE in identifying under-performing schools and in directing resources effectively.

On November 9, 2015, BIE published a notice of intent requesting nominations for a negotiated rulemaking committee to recommend revisions to the existing regulations for BIE's accountability system (80 FR 69161). In that notice of intent, the BIE solicited nominations from Tribes whose students attend BIE-funded schools operated either by the BIE or by the Tribe through a contract or grant, to nominate Tribal representatives to serve on the Committee and Tribal alternates to serve when the representative is unavailable.

The Every Student Succeeds Act (ESSA), Pub. L. 114-95, then became law, requiring an update to the subject, scope, and issues that the Committee would address. On April 14, 2016 (81 FR 22039), BIE announced its intent to expand the scope of the Committee and reopened the comment and nomination period, requesting comments and nominations by May 31, 2016. The request for nominations was extended on August 17, 2016 (81 FR 54768). On January 18, 2017 a notice of proposed membership, request for nomination and a request for comments was published (82 FR 5473).

Taking into consideration the interests of the new Administration in participating in this process, the Department has decided that a new negotiated rulemaking process, as required by the ESEA, should begin.

Under ESEA Section 8204(c)(2), as amended, Tribes have the authority to waive, in part or in whole, the definitions of standards, assessments, and accountability system established by the Secretary in accordance with this rulemaking. The BIE encourages Tribal self-determination in Native education; and where a Tribal governing body or school board determines it to be appropriate, encourages the development of alternative standards, assessments, or accountability systems.

The Committee would be charged, consistent with ESEA Section 8204, with developing proposed regulations for implementation of the Secretary's

responsibility to define standards, assessments, and an accountability system. These definitions will be implemented in the 2018–2019 school year. The final regulations will describe how to execute the Secretary's responsibility to define the standards, assessments, and an accountability system consistent with ESEA Section 1111, for schools funded by the BIE on a national, regional, or Tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools. Additionally, the Committee will be asked to provide recommendations that encourage the exercise of the authority of Tribes to adopt their own standards, assessments, and an accountability system and also to provide recommendations on how BIE could best provide technical assistance under ESEA Section 8204(c)(3).

II. Every Student Succeeds Act (ESSA)

The ESSA reauthorizes and amends the ESEA. ESSA Section 8007 amends ESEA Section 8204, and directs the Secretary of the Interior, in consultation with the Secretary of Education, if so requested, to use a negotiated rulemaking process to develop regulations for implementation of the Secretary of the Interior's obligation to define the standards, assessments, and an accountability system that will be utilized at BIE-funded schools. The regulations, along with any necessary revisions to part 30 generally, will replace the existing 25 CFR part 30 and will define the standards, assessments, and an accountability system consistent with ESEA, for BIE-funded schools on a national, regional, or Tribal basis. The regulations will be developed in a manner that considers the unique circumstances and needs of such schools and the students served by such schools. These definitions will be implemented in the 2018–2019 school year.

ESEA Section 8204 also provides that if a Tribal governing body or school board of a BIE-funded school determines the requirements established by the Secretary of the Interior are inappropriate, they may waive, in part or in whole, such requirements. Where such requirements are waived, the Tribal governing body or school board shall, within 60 days, submit to the Secretary of the Interior a proposal for alternative standards, assessments, and an accountability system, if applicable, consistent with ESEA Section 1111. The proposal must take into account the unique circumstances and needs of the school or schools and the students served. The proposal will be approved

by the Secretary of the Interior and the Secretary of Education, unless the Secretary of Education determines that the standards, assessments, and accountability system do not meet the requirements of ESEA Section 1111. Additionally, a Tribal governing body or school board of a BIE-funded school seeking a waiver may request, and the Secretary of the Interior and the Secretary of Education will provide, technical assistance.

III. Statutory Authority

This document is published in accordance with the Negotiated Rulemaking Act of 1996 (NRA) (5 U.S.C. 561 *et seq.*); the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix 2); and the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. 6301 *et seq.*)

IV. The Committee and Its Process

In negotiated rulemaking, recommended provisions of a proposed rule are developed by a committee composed of at least one representative of the Federal Government and representatives of the interests that will be significantly affected by the rule. Decisions are made by consensus, which means unanimous concurrence among the interests represented on the Committee, unless the Committee agrees to define "consensus" to mean a general but not unanimous concurrence, or agrees upon another specified definition. 5 U.S.C. 562(2)(A) and (B).

As part of the negotiated rulemaking process, the BIE has identified interests potentially affected by the rulemaking under consideration, including students enrolled at 174 BIE-funded schools, parents of such students, school administrators, Tribes, and the Indian communities served by these schools. By this notice of intent, the BIE is soliciting: (1) Comments on its proposal to form a negotiated rulemaking committee; and (2) nominations for Committee members who will adequately represent the interests that are likely to be significantly affected by the proposed rule.

Following the receipt of nominations and comments, BIE will publish a second notice in the **Federal Register** with a list of persons to represent the interests that are likely to be significantly affected by the rule and the person or persons proposed to represent the BIE. Persons who will be significantly affected by the proposed rule and who believe that their interests will not be adequately represented by any person specified in that second **Federal Register** notice will be given an opportunity to apply or nominate

another person for membership on the Committee to represent such interests with respect to the proposed rule.

Following the second **Federal Register** notice and responses to it, BIE expects to establish the Committee. After the Committee reaches consensus on the recommended provisions of the proposed rule, as discussed in more detail below, the BIE will publish a proposed rule in the **Federal Register**.

Under 5 U.S.C. 563, the head of the agency is required to determine that the use of the negotiated rulemaking procedure is in the public interest.

In making such a determination, the agency head must consider certain factors. Taking these factors into account, the Secretary, through the authority delegated to the Assistant Secretary—Indian Affairs, has determined that a negotiated rulemaking is in the public interest because:

1. A rule is needed. The ESEA directs the Secretary to conduct a negotiated rulemaking pursuant to the NRA.
2. A limited number of identifiable interests will be significantly affected by the rule. The 174 BIE-funded schools, students enrolled at these schools, school teachers and administrators, Tribes, and Indian communities served by these schools will be significantly affected by this review and the recommendations made by this Committee.
3. There is a reasonable likelihood that the Committee can be convened with a balanced representation of persons who can adequately represent the interests discussed in item 2, above, and who are willing to negotiate in good faith to attempt to reach a consensus on provisions of a proposed rule.
4. There is a reasonable likelihood that the Committee will reach consensus on a proposed rule within a fixed period of time.
5. The use of negotiated rulemaking will not delay the development of a proposed rule because time limits will be placed on the negotiation. We anticipate that these negotiations will expedite a proposed rule and ultimately the acceptance of a final rule.
6. The BIE is making a commitment to ensure that the Committee has sufficient resources to complete its work in a timely fashion.
7. The BIE, to the maximum extent possible and consistent with the legal obligations of the Agency, will use the consensus report of the Committee as the basis for a proposed rule for public notice and comment.

V. Negotiated Rulemaking Procedures

In compliance with FACA and NRA, the BIE will use the following

procedures and guidelines for this negotiated rulemaking. The BIE may modify them in response to comments received on this notice of intent or during the negotiation process.

A. Committee Formation

The Committee will be formed and operated in full compliance with the requirements of FACA and NRA, and specifically under the guidelines of its charter.

B. Membership Responsibility

The Committee is expected to meet approximately 3–5 times and will last 2–3 days each. The initial meeting will be in person; some later meetings may be held by teleconference and/or web conference. The Committee's work is expected to occur over the course of 6–12 months. However, the Committee may continue its work for up to two years.

Because of the scope and complexity of the tasks at hand, Committee members must be able to invest considerable time and effort in the negotiated rulemaking process. Committee members must be able to attend all Committee meetings, work on Committee work groups, consult with their constituencies between Committee meetings, and negotiate in good faith toward a consensus on issues before the Committee. Because of the complexity of the issues under consideration, as well as the need for continuity, the Secretary reserves the right to replace any member who is unable to participate in the Committee's meetings.

Responsibility for expenses under 5 U.S.C. 568(c) is as follows:

Members of a negotiated rulemaking committee shall be responsible for their own expenses of participation in such committee, except that an Agency may, in accordance with Section 7(d) of the FACA, pay for a member's reasonable travel and per diem expenses, expenses to obtain technical assistance, and a reasonable rate of compensation, if—

1. Such member certifies a lack of adequate financial resources to participate in the Committee; and
2. The agency determines that such member's participation in the Committee is necessary to assure an adequate representation of the member's interest.

The BIE commits to pay the reasonable travel and per diem expenses of Committee members, if appropriate, under the NRA and Federal travel regulations.

C. Composition of Committee

The Secretary is seeking nominations for representatives to serve on the

Committee who can represent the interests of students enrolled at the 174 BIE-funded schools, parents of such students, school administrators, Tribes, and the Indian communities served by these schools, and who have a demonstrated ability to communicate well with groups about the interests they will represent. The Committee membership will consist of approximately 15, but not more than 25 members in accordance with the NRA.

Non-Federal Committee membership must:

- Include only representatives of the interests described above;
- Comply with the FACA.

41 CFR 102–3.30 requires the membership of a FACA committee to be fairly balanced in its member in terms of the points of view represented and the functions to be performed. In making membership decisions, the Secretary shall consider whether the interest represented by a nominee will be affected significantly by the final products of the Committee, which may include report(s) and/or proposed regulations; whether that interest is already adequately represented by nominees; and whether the potential addition would adequately represent that interest.

Federally registered lobbyists are ineligible to serve on all FACA and non-FACA boards, committees, or councils in an individual capacity. The term “individual capacity” refers to individuals who are appointed to exercise their own individual best judgment on behalf of the government, such as when they are designated Special Government Employees, rather than being appointed to represent a particular interest.

D. Administrative and Technical Support

The BIE will provide sufficient administrative and technical resources for the Committee to complete its work in a timely fashion. The BIE, with the help of the facilitator, will prepare and provide a final report of any issues on which the Committee reaches consensus.

E. Training and Organization

At the first meeting of the Committee, a neutral facilitator will provide training on negotiated rulemaking, interest-based negotiations, and consensus-building. In addition, at the first meeting, Committee members will make organizational decisions concerning protocols, scheduling, and facilitation of the Committee.

F. Interests Identified

Under Section 562 of the NRA, “interest” means, with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner.’ The BIE has identified the interests to be significantly affected by this new rule to include students enrolled at 174 BIE-funded schools, parents of such students, school administrators, Tribes, and the Indian communities served by these schools. The BIE is accepting comments identifying other interests that may be significantly affected by the final products of the Committee, which may include report(s) and/or proposed regulations, until the date listed in the **DATES** section of this notice of intent.

VI. Nominations

The BIE solicits nominations from representatives of the interests identified above and an alternate to serve when the representative is unavailable.

Each nomination is expected to include a nomination for a primary representative and an alternate who can fulfill the obligations of membership should the primary representative be unable to attend. The Committee membership should reflect a diversity of interests, and nominees should only be of representatives and alternates who will:

- Have knowledge of school standards, assessments and accountability systems;
- Have relevant experience as past or present superintendents, principals, teachers, or school board members;
- Be able to coordinate, to the extent possible, with other interests who may not be represented on the Committee;
- Be able to represent one or more of the specified interests with the authority to embody the views of that interest, communicate with interested constituents, and have a clear means to reach agreement on behalf of the interest(s);
- Be able to negotiate effectively on behalf of the interest(s) represented;
- Be able to commit the time and effort required to attend and prepare for meetings; and
- Be able to collaborate among diverse parties in a consensus-seeking process.

The BIE will consider nominations for representatives only if they are nominated through the process identified in this Notice of Intent. The BIE will not consider any nominations that we receive in any other manner. If you submitted a nomination in response

to previous notices (80 FR 69161; 81 FR 22039; 81 FR 54768; 82 FR 5473) you must submit a new nomination package. Previous applications will not be considered. The BIE will not consider nominations for Federal representatives. Only the Secretary may nominate Federal employees to the Committee.

Nominations must include the following information about each nominee:

(1) A current letter from the entity representing one of the interest(s) identified supporting the nomination of the individual to serve as a representative for the Committee;

(2) A resume reflecting the nominee's qualifications and experience in Indian education; resume to include the nominee's name, Tribal affiliation (if applicable), job title, major job duties, employer, business address, business telephone and fax numbers (and business email address, if applicable);

(3) The interest(s) to be represented by the nominee (see section V, part F) and whether the nominee will represent other interest(s) related to this rulemaking; and

(4) A brief description of how the nominee will represent the views of the identified interest(s), communicate with constituents, and have a clear means to reach agreement on behalf of the interest(s) they are representing.

(5) A statement on whether the nominee is only representing one interest or whether the expectation is that the nominee represents a specific group of interests.

To be considered, nominations must be received by the close of business on the date listed in the **DATES** section, at the location indicated in the **ADDRESSES** section.

Public Availability of Comments: 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.

VII. Certification

For the above reasons, I hereby certify that the Bureau of Indian Education Standards, Assessments, and

Accountability System Negotiated Rulemaking Committee is in the public interest.

Authority: 20 U.S.C. 6301; 5 U.S.C. 561; 5 U.S.C. Appendix 2.

Dated: September 1, 2017.

Michael S. Black,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2017–19111 Filed 9–13–17; 8:45 am]

BILLING CODE 4337–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0130; FRL–9967–68–Region 9]

Revisions to California State Implementation Plan; Bay Area Air Quality Management District; Emission Reduction Credit Banking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on a revision to the Bay Area Air Quality Management District (BAAQMD or District) portion of the California State Implementation Plan (SIP). We are proposing a conditional approval of one rule. This revision consists of updates to provisions governing the issuance and banking of Emission Reduction Credits for use in the review and permitting of major sources and major modifications under part D of title I of the Clean Air Act (CAA). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by October 16, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2017–0130 at <https://www.regulations.gov>, or via email to R9AirPermits@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is

restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region 9, (415) 972–3534, yannayon.laura@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms “we,” “us,” and “our” refer to EPA.

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I. The State's Submittal

A. What rule did the State submit?

On April 22, 2013, the California Air Resources Board (CARB) submitted an amended rule, BAAQMD Regulation 2, Rule 4 (Rule 2–4), for approval as a revision to the BAAQMD portion of the California SIP under the CAA. Regulation 2 contains the District's air quality permitting programs. Rule 2–4 contains requirements applicable to the banking of Emission Reduction Credits (ERCs) for use in the District's air quality permitting programs.

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by BAAQMD and submitted to the EPA by CARB, which is the governor's designee for California SIP submittals.

TABLE 1—SUBMITTED RULE

Regulation & rule number	Rule title	Adopted/ amended	Submitted
Regulation 2, Rule 4 (Rule 2–4)	Permits, Emissions Banking	12/19/12	4/22/13

On June 26, 2013, Regulation 2, Rule 4 was deemed to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. The submittal includes evidence of public notice and adoption of the amended rule. While we can only take action on the most recently submitted version of each regulation (which supersedes earlier submitted versions),

we have reviewed materials provided with previous submittals.

B. What is the existing BAAQMD rule governing banking of Emission Reduction Credits in the California SIP?

The existing SIP-approved banking rule in the Bay Area consists of the rule identified in Table 2. This rule includes requirements for the generation and use of ERCs in nonattainment areas.

Consistent with the District’s stated intent to have the submitted banking rule replace the existing SIP-approved banking rule in its entirety, EPA’s conditional approval of the regulation identified in Table 1 would have the effect of entirely superseding our prior approval of the same rule in the current SIP-approved program.

TABLE 2—EXISTING SIP RULE

Regulation & rule No.	Rule title	BAAQMD adoption date	EPA approval date	FR citation
2–4	Permits, Emissions Banking	6/15/1994	1/26/1999	64 FR 3850.

C. What is the purpose of this proposed rule?

The purpose of this proposed rule is to present our evaluation under the CAA and EPA’s regulations of the amended banking rule submitted by CARB on April 22, 2013, as identified in Table 1. We provide our reasoning in general terms later in this preamble and provide a more detailed analysis in our Technical Support Document (TSD), which is available in the docket for this proposed rulemaking.

II. EPA’s Evaluation

A. How is EPA evaluating the rule?

In general, banking rules allow a permitting authority to evaluate whether certain emission reductions meet the offset integrity criteria found in 40 CFR 51.165(a)(3)(ii)(C)(1)(i) and CAA section 173(c)(1) at the time of ERC issuance, and, if found to meet these criteria, to certify that finding by issuing an ERC Certificate. This process provides the Certificate-holder with a greater degree of certainty as to the validity of their ERCs for future use as offsets. Since the intent of a banking program is to pre-review an emission reduction to determine whether it will meet the offset integrity criteria, we considered these criteria in our evaluation. In addition, we used EPA’s Emissions Trading Policy Statement (ETPS),¹ which provides guidance on emissions trading, including the banking of ERCs for future use. EPA also evaluated the rules for compliance with the CAA

requirements for SIP revisions in CAA sections 110(a)(2) and 110(l), and the additional requirements laid out in 40 CFR 51.165(a)(3).

Our TSD, which can be found in the docket for this rule, contains a more detailed evaluation and discussion of the approval criteria.

B. Does the rule meet the evaluation criteria?

With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. Based on our review of the public process documentation included in the April 22, 2013 submittal, we find that the BAAQMD has provided sufficient evidence of public notice, and an opportunity for comment and a public hearing prior to adoption and submittal of these rules to EPA.

With respect to substantive requirements, we have evaluated Rule 2–4 to ensure it does not conflict with the requirements applicable to offsets in accordance with the CAA and regulatory requirements that apply to nonattainment NSR permit programs under part D of title I of the Act. For the most part, the submitted banking rule satisfies the applicable requirements and will strengthen the SIP by updating the rule and adding requirements to address fine particulate matter (PM_{2.5}). However, the submitted banking rule also contains three deficiencies that prevent full approval. Further in this preamble, we discuss generally our

evaluation of BAAQMD’s submitted rule and describe the identified deficiencies. Our TSD contains a more detailed evaluation and recommendations for program improvements.

First, Rule 2–4 is deficient because, while it defines the term ERCs as emission reductions “that are in excess of the reductions required by applicable regulatory requirements, and that are real, permanent, quantifiable, and enforceable,” it does not contain any enforceable provisions requiring the Air Pollution Control Officer to determine that the emission reductions under review meet the offset integrity criteria prior to issuing an ERC Certificate.

Second, Rule 2–4 is deficient because it incorporates the emission reduction calculation procedures found in Rule 2–2 subsection 605.2. On August 1, 2016, EPA finalized a limited approval and limited disapproval of BAAQMD’s Rule 2–2—*New Source Review*² because it contained deficiencies regarding the calculation of emission reductions. Specifically, EPA disapproved Rule 2–2 subsection 605.2 because it allows existing “fully-offset” sources to generate ERCs based on the difference between the post-modification potential to emit (PTE) and the pre-modification PTE. This may result in crediting emission reductions that are not “actual” reductions, as required by the Act. See 42 U.S.C. 7503(c)(1).

Third, Rule 2–4 is deficient because Section 2–4–302.3 allows ERC Certificates to be issued that do not

¹ 51 FR 43814, December 4, 1986.

² 81 FR 50339, August 1, 2016.

adequately ensure the permanency of an emission reduction due to a facility closure.

With respect to the substantive requirements of CAA section 110(l), we have determined that our approval of Rule 2–4, as described in more detail in our TSD, represents a strengthening of the rule as compared to the District's current SIP-approved banking rule that we approved on January 26, 1999 (64 FR 3850), and that our conditional approval of the current SIP submittal would not interfere with any applicable requirement concerning attainment and Reasonable Further Progress or any other applicable requirement of the Act.

III. Proposed Action and Public Comment

Because the rule deficiencies described previously are inappropriate for inclusion in the SIP, EPA cannot grant full approval of this rule under section 110(k)(3) of the Act. However, in a letter dated August 28, 2017, the District committed to adopt and submit specific enforceable measures to address these deficiencies. The District committed to submit these revisions to CARB by October 1, 2018. In addition, in a letter dated August 29, 2017, CARB committed to submit the adopted rule revisions to EPA no later than November 1, 2018. Accordingly, pursuant to section 110(k)(4) of the Act, EPA is proposing a conditional approval of the submitted rule. We are proposing to conditionally approve the submitted rule based on our determination that separate from the deficiencies listed previously, the rule: Ensures that issued ERCs will meet the criteria laid out in 40 CFR 51.165(a)(3)(ii)(C)(1)(i) at the time of ERC issuance; satisfies the requirements of 40 CFR 51.165(a)(3)(i); satisfies the applicable requirements found in the ETPS; and satisfies the requirements of 40 CFR 51.165(a)(3)(ii)(C)(1)(ii), which requires pre-base year shutdown credits to be explicitly added back in to the most recent applicable air quality plans. Moreover, we conclude that if the District submits the changes it has committed to submit, these deficiencies will be cured.

In support of this proposed action, we have concluded that our conditional approval of the submitted rule would comply with section 110(l) of the Act because the amended rule, as a whole, would not interfere with continued attainment of the National Ambient Air Quality Standards in the Bay Area. The intended effect of our proposed conditional approval action is to update the applicable SIP with current BAAQMD rules and provide BAAQMD

the opportunity to correct the identified deficiencies, as discussed in their commitment letter dated August 28, 2017. If we finalize this action as proposed, our action would be codified through revisions to 40 CFR 52.220 (Identification of plan) and 40 CFR 52.232 (Part D conditional approval).

If the State meets its commitment to submit the required measures by November 1, 2018, the revisions to Rule 2–4 will remain a part of the SIP until EPA takes final action approving or disapproving the new SIP revisions. However, if the District fails to submit these revisions within the required timeframe, the conditional approval will automatically become a disapproval, and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval.

There are no sanctions or Federal Implementation Plan (FIP) implications should the conditional approval become a disapproval. Sanctions would not be imposed under CAA section 179(b) because the submittal of Rule 2–4 is discretionary (*i.e.*, not required to be included in the SIP). *See* ETPS, 51 FR 43,813 at 43,825 (“[S]tates are by no means required to adopt banking procedures, but . . . banks may help states and communities realize important planning and environmental benefits.”). A FIP would not be imposed under CAA section 110(c)(1) because the disapproval does not reveal a deficiency in the SIP that such a FIP must correct. Specifically: (1) The deficiencies identified herein do not impact or undermine the requirement that offsets satisfy the requirements of 40 CFR 51.165, including the requirement that offsets must satisfy the offset integrity criteria enumerated in 40 CFR 51.165(a)(3)(ii)(C)(1)(i) at the time of use; and (2) Rule 2–4 is not a required CAA submittal because states and air districts have the discretion, but are not required, to adopt banking rules.

We will accept comments from the public on the proposed conditional approval of Rule 2–4 for the next 30 days.

IV. 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 BAAQMD Regulation 2, Rule 4 (Permits, Emissions Banking), which is discussed in section I.A. of this preamble. The EPA has made, and will continue to make, this document generally available electronically through <https://www.regulations.gov> and in hard copy

at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

List of Subjects in 40 CFR Part 52

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

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

Dated: August 31, 2017.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2017–19451 Filed 9–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2017–0469; FRL–9967–67–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Revisions to the Utah Division of Administrative Rules, R307–300 Series; Area Source Rule for Attainment of Fine Particulate Matter Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of the fine particulate matter (PM_{2.5}) State Implementation Plan (SIP) and related rule revisions submitted by the State of Utah. The EPA is proposing to approve revisions submitted on May 9, 2013 and August 25, 2017 for Utah’s fugitive dust control rule, and to approve the State’s associated reasonable available control measures (RACM) determination, submitted on December 16, 2014. This action is being taken under section 110 of the Clean Air Act (CAA or Act).

DATES: Written comments must be received on or before October 16, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2017–0469 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from <https://www.regulations.gov>. The EPA may publish any comment received to the public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information, the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Crystal Ostigaard, Air Program, EPA,

Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6602, ostigaard.crystal@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

a. *Submitting CBI.* Do not submit CBI to the EPA through <https://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

b. *Tips for Preparing Your Comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. Regulatory Background

On October 17, 2006 (71 FR 61144), the EPA strengthened the level of the 24-hour PM_{2.5} National Ambient Air Quality Standards (NAAQS), lowering the primary and secondary standards from 65 micrograms per cubic meter

($\mu\text{g}/\text{m}^3$), the 1997 standard, to $35\mu\text{g}/\text{m}^3$. On November 13, 2009 (74 FR 58688), the EPA designated three nonattainment areas in Utah for the 24-hour $\text{PM}_{2.5}$ NAAQS of $35\mu\text{g}/\text{m}^3$. These are the Salt Lake City, Utah; Provo, Utah; and Logan, Utah (UT)-Idaho (ID) nonattainment areas. The EPA originally designated these areas under CAA title I, part D, subpart 1, which required Utah to submit an attainment plan for each area no later than three years from the date of their nonattainment designations. These plans needed to provide for the attainment of the $\text{PM}_{2.5}$ standard as expeditiously as practicable, but no later than five years from the date the areas were designated nonattainment.

Subsequently, on January 4, 2013, the U.S. Court of Appeals for the District of Columbia held that the EPA should have implemented the 2006 $\text{PM}_{2.5}$ 24-hour standard based on both CAA title I, part D, subpart 1 and subpart 4. *NRDC v. EPA*, 706 F.3d 428 (D.C. Cir. 2013). Under subpart 4, nonattainment areas are initially classified as Moderate, and Moderate area attainment plans must address the requirements of subpart 4 as well as subpart 1. Additionally, CAA subpart 4 sets a different SIP submittal due date and attainment year. For a Moderate area, the attainment SIP is due 18 months after designation, and the attainment year is the end of the sixth calendar year after designation. On June 2, 2014 (79 FR 31566), the EPA finalized the Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particulate ($\text{PM}_{2.5}$) National Ambient Air Quality Standard (NAAQS) and 2006 $\text{PM}_{2.5}$ NAAQS (“the Classification and Deadline Rule”). This rule classified to Moderate the areas that were designated in 2009 as nonattainment, and set the attainment SIP submittal due date for those areas at December 31, 2014.

On August 24, 2016, the EPA finalized the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements (“ $\text{PM}_{2.5}$ Implementation Rule”), 81 FR 58010, which partially addressed the January 4, 2013 court ruling. The final implementation rule details how air agencies can meet the statutory SIP requirements under subparts 1 and 4 that apply to areas designated nonattainment for any $\text{PM}_{2.5}$ NAAQS, such as: General requirements for attainment plan due dates and attainment demonstrations; provisions for demonstrating reasonable further progress (RFP); quantitative milestones; contingency measures; Nonattainment

New Source Review (NNSR) permitting programs; and RACM (including reasonably available control technology (RACT)). The statutory attainment planning requirements of subparts 1 and 4 were established to ensure that the following goals of the CAA are met: (i) That states implement measures that provide for attainment of the $\text{PM}_{2.5}$ NAAQS as expeditiously as practicable; and, (ii) that states adopt emissions reduction strategies that will be the most effective at reducing $\text{PM}_{2.5}$ levels in nonattainment areas.

B. RACT and RACM Requirements for $\text{PM}_{2.5}$ Attainment Plans

Section 172(c)(1) of the Act (from subpart 1) requires that attainment plans, in general, shall provide for the implementation of all RACM (including RACT) as expeditiously as practicable and shall provide for attainment of the national primary ambient air quality standards. CAA section 189(a)(1)(C) (from subpart 4) requires Moderate area attainment plans to contain provisions to assure that RACM is implemented no later than four years after designation.

The EPA stated its interpretation of the RACT and RACM requirements of subparts 1 and 4 in the 1992 General Preamble for the Implementation of Title I of the CAA Amendments of 1990, 57 FR 13498 (April 16, 1992). For RACT, the EPA followed its “historic definition of RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.” 57 FR 13541, April 16, 1992. Like RACT, the EPA has historically considered RACM to consist of control measures that are reasonably available, considering technological and economic feasibility. See $\text{PM}_{2.5}$ Implementation Rule, 81 FR 58010, August 24, 2016.

C. Utah’s $\text{PM}_{2.5}$ Attainment Plan Submittals

Prior to the January 4, 2013 decision of the D.C. Circuit Court of Appeals, Utah developed a $\text{PM}_{2.5}$ attainment plan intended to meet the requirements of subpart 1. The EPA submitted written comments dated November 1, 2012, to the Utah Division of Air Quality (UDAQ) on Utah’s draft $\text{PM}_{2.5}$ SIP, technical support document (TSD), and area source and other rules. After the court’s decision, Utah amended its attainment plan to address requirements of subpart 4. The EPA’s comment letter can be found within the docket for this action on www.regulations.gov. We are proposing to act on revisions to R307–309, Nonattainment and Maintenance

Areas for PM_{10} and $\text{PM}_{2.5}$: Fugitive Emissions and Fugitive Dust submitted by Utah on May 9, 2013 and August 25, 2017. This rule is applicable to the Utah SIPs for $\text{PM}_{2.5}$ nonattainment areas.

III. EPA’s Evaluation of Utah’s Submittals

The State of Utah submitted SIP revisions for R307–309 on May 9, 2013, and August 25, 2017. However, the EPA identified issues with R307–309 relating to director’s discretion, ambiguous language, and other general language issues. In response, Utah submitted a letter dated September 30, 2016, that committed to revise R307–309 in specific ways to address these issues. Before the EPA could conditionally approve Utah’s September 30, 2016 committed revisions, Utah submitted the specific revisions on August 25, 2017. Thus, the EPA is proposing to approve the submittals and to approve the corresponding RACM determination for R307–309 in the December 16, 2014 submittal for Utah’s Moderate $\text{PM}_{2.5}$ SIPs.

The following is a summary of the EPA’s evaluation of the rule revisions. In general, we reviewed the rule for: Enforceability; RACM requirements (for those rules submitted as RACM); and other applicable requirements of the Act, including those found in 40 CFR part 51.

1. R307–309, Nonattainment and Maintenance Areas for PM_{10} and $\text{PM}_{2.5}$: Fugitive Emissions and Fugitive Dust

The area source rule and corresponding RACM analysis from Utah’s $\text{PM}_{2.5}$ Moderate SIPs is R307–309—Nonattainment and Maintenance Areas for PM_{10} and $\text{PM}_{2.5}$: Fugitive Emissions and Fugitive Dust, which we are proposing to approve in this action. Rule R307–309 is an existing rule that was part of the PM_{10} SIP approved by the EPA on July 8, 1994 (59 FR 35036). This rule establishes minimum work practice and emission standards for sources of fugitive emissions and fugitive dust. R307–309 applies to all sources of fugitive dust and fugitive emissions, except as specified in R307–309–3(2), that are located in PM_{10} and $\text{PM}_{2.5}$ nonattainment and maintenance areas.

The rule requires any person owning or operating a new or existing source of fugitive dust one-quarter acre or greater in size to submit a fugitive dust control plan to UDAQ. Sources of fugitive dust include: Storage, hauling or handling operations, earthmoving, excavation, and moving trucks or construction equipment, among many others. Activities regulated by R307–309 may

not commence before the fugitive dust control plan is approved either electronically or by hard copy. UDAQ submitted the format for the fugitive dust control plan to the EPA and the document can be found in the docket for this action.

The rule also sets a generally applicable opacity limit of 10% at property boundaries and 20% onsite, except during high wind events. During these events, the owner or operator must continue to follow the fugitive dust control plan and take one or more specified actions. Under Utah's August 25, 2017 SIP, the actions are: (1) Prevent watering; (2) hourly watering; (3) adding additional chemical stabilization; and/or (4) ceasing or reducing fugitive dust producing operations to the extent practicable. The rule contains additional requirements regarding roads, mining activities, and tailings ponds and piles.

R307–309 was previously approved for PM₁₀ nonattainment areas and amended in 2012 to include the PM_{2.5} nonattainment counties. UDAQ reviewed other western state programs (including South Coast & San Joaquin Valley, California; Washoe & Clark Counties, Nevada; and Maricopa, Arizona) for the RACM analysis on R307–309. Based on this review, UDAQ updated R307–309 as follows: (1) Rewording the high wind provision in R307–309 so that it is clear that sources must continue to implement control measures; (2) requiring a high wind contingency plan; (3) removal of the 30-day dust plan filing window; (4) requiring that dust generating activities may not commence before obtaining an approved dust plan; (5) developing best management practices (BMPs) for all dust source categories; (6) replacing the suggested control measures language in R307–309 with a requirement to implement BMPs; and (7) creating a one-stop shop for a storm-water permit and fugitive dust control plan filing.

UDAQ noted that the number of dust complaints has significantly decreased since 2008 and only a very small number of complaints were related to an exceedance of the PM_{2.5} standard. From 2009 to 2012 there were a total of 2,126 inspections done by UDAQ resulting in only eight violations of the relevant dust control plan. The RACM and rule analysis can be found within Chapter 5 of the PM_{2.5} Moderate SIP TSD.

For construction, buildings, single family residential, double unit residential, multiple units, and non-residential industries, UDAQ expects control efficiency (CE), rule effectiveness (RE) and rule penetration (RP) to be 37%, 80%, and 95%,

respectively. The calculated PM_{2.5} reduction for the affected sources in Box Elder, Cache, Davis, Tooele and Weber Counties would be 28%.¹ For sand and gravel and related industries, UDAQ expects CE, RE and RP to be 40%, 80% and 95%, respectively, with a calculated PM_{2.5} reduction of 30% for the affected sources in Box Elder, Cache, Davis, Tooele and Weber Counties. No reductions were taken in Utah County and Salt Lake County as the program was in place as part of the PM₁₀ SIP.

On July 11, 2012, the Air Quality Board proposed for public comment revisions to R307–309. The public comment period was held from August 1 to August 31, 2012, with a public hearing being held on August 15, 2012. Comments were submitted by industry, environmental associations, and the EPA. The EPA submitted written comments dated November 1, 2012, on Utah's draft PM_{2.5} SIP and TSD, which included revisions and RACM analysis for R307–309. UDAQ made changes to R307–309 based on comments that were received and the rule became effective on January 1, 2013. Compliance with the rule was required for Salt Lake County, Utah County and the city of Ogden by January 1, 2013. The compliance date for the remaining affected sources began either 30 or 90 days after January 1, 2013, depending on the applicable portion of the rule. On May 9, 2013, UDAQ submitted these revisions to R307–309 to the EPA; however, the EPA identified additional issues with R307–309 relating to director's discretion provisions, ambiguous language, and other general language issues.

UDAQ committed to correct the identified issues in a commitment letter dated September 30, 2016, which can be found in the docket for this proposed rulemaking. On May 3, 2017, the Air Quality Board proposed for public comment revisions found in the September 30, 2016 commitment letter to R307–309. The comment period was held from June 1 to July 3, 2017, with no public hearing being requested. Comments were submitted by an environmental association and the EPA. The EPA submitted a comment on June 1, 2017, specifying the proposed revisions represented revisions committed to in the September 30, 2016 commitment letter. The rule became effective on August 4, 2017. On August 25, 2017, UDAQ submitted these revisions to R307–309 to the EPA. As

¹ Control Efficiency (CE), Rule Effectiveness (RE), and Rule Penetration (RP) are described in the December 16, 2014, Utah Moderate PM_{2.5} SIP TSD in Chapter 5—Control Strategies, Section b—Area Sources, pages 5.b.1–2 to 5.b.1–6.

stated previously, Utah submitted the specific revisions found in the September 30, 2016 commitment letter before the EPA could conditionally approve R307–309; thus, the EPA will be proposing to approve R307–309 and proposing approval of Utah's determination that R307–309 constitutes RACM.

IV. What action is EPA proposing?

The EPA is proposing to approve revisions to R307–309 submitted on May 9, 2013, and August 25, 2017, and proposing to approve Utah's determination in their December 16, 2014 submittal that R307–309 constitutes RACM for Utah's Moderate PM_{2.5} SIPs. We are not proposing to determine that Utah's PM_{2.5} attainment plan has met all requirements regarding RACM under subparts 1 and 4 of part D, title I of the Act.

V. Consideration of Section 110(l) of the CAA

Under section 110(l) of the CAA, the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirements concerning attainment and RFP toward attainment of the NAAQS, or any other applicable requirement of the Act. In addition, section 110(l) requires that each revision to an implementation plan submitted by a state shall be adopted by the state after reasonable notice and public hearing.

The Utah SIP revisions that the EPA is proposing to approve do not interfere with any applicable requirements of the Act. The Utah Division of Administrative Rules (DAR) section R307–300 Series revisions submitted by the UDAQ on May 9, 2013, and August 25, 2017, are intended to strengthen the SIP and to serve as RACM for certain area sources for the Utah PM_{2.5} SIP. Therefore, CAA section 110(l) requirements are satisfied.

VI. 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 UDAQ rules promulgated in the DAR, R307–300 Series as discussed in section III of this preamble. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and/or at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. 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. 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 CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as

specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: August 31, 2017.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

[FR Doc. 2017-19574 Filed 9-13-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2017-0339; FRL-9967-65-Region 8]

Montana Second 10-Year Carbon Monoxide Maintenance Plan for Missoula

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted to the EPA by the State of Montana. On September 19, 2016, the Governor of Montana's designee submitted a Clean Air Act (CAA) section 175A(b) second 10-year limited maintenance plan for the Missoula area for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS). This limited maintenance plan addresses maintenance of the CO NAAQS for a second 10-year period beyond the original redesignation. This action is being taken under sections 110 and 175A of the CAA.

DATES: Comments must be received on or before October 16, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2017-0339 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system).

Docket: All documents in the docket are listed in the www.regulations.gov index. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays. For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-7104, clark.adam@epa.gov.

SUPPLEMENTARY INFORMATION: In the "Rules and Regulations" section of today's **Federal Register**, the EPA is approving Montana's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If the EPA receives no adverse comments, the EPA will not take further action on this proposed rule. If the EPA receives adverse comments, the EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For additional information, see the direct final action, with the same title, that is located in the "Rules and Regulations" section of this issue of the **Federal Register**.

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

Dated: August 31, 2017.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

[FR Doc. 2017-19462 Filed 9-13-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2017-0459, FRL-9967-76-Region 2]

Approval and Promulgation of Implementation Plans; New York; Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve a State Implementation Plan (SIP) submitted by the State of New York for purposes of implementing Reasonably Available Control Technology (RACT) for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). This proposed approval is conditioned on New York's timely submittal of a supplement to the SIP that includes a revised regulatory RACT requirement related to control of volatile organic compounds from Industrial Cleaning Solvents. The EPA is proposing to approve New York's RACT SIP as it applies to non-control technique guideline major sources and major sources of oxides of nitrogen. The EPA is also proposing to approve the State of New York's non-attainment new source review certification as sufficient for purposes of satisfying the 2008 8-hour ozone NAAQS. This action is being taken in accordance with the requirements of the Clean Air Act.

DATES: Written comments must be received on or before October 16, 2017.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R02-OAR-2017-0459 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be

accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Anthony (Ted) Gardella, Environmental Protection Agency, 290 Broadway, New York, New York 10007-1866, at (212) 637-3892, or by email at Gardella.Anthony@epa.gov.

SUPPLEMENTARY INFORMATION:

The SUPPLEMENTARY INFORMATION section is arranged as follows:

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- I. What action is the EPA proposing?
- II. What is the background for this proposed rulemaking?
- III. What did New York submit?
- IV. What is the EPA's evaluation of New York's SIP submittal?
- V. How could New York get full approval for this SIP revision?
- VI. Statutory and Executive Order Reviews

I. What action is the EPA proposing?

The EPA is proposing to conditionally approve a State Implementation Plan (SIP) submitted by the State of New York on December 22, 2014 for purposes of implementing Reasonably Available Control Technology (RACT)¹ for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard). The State's December 2014 SIP revision consists of a demonstration that New York meets the RACT requirements for the two precursors for ground-level ozone, *i.e.*, oxides of nitrogen (NO_x) and volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA or Act) with respect to the 2008 ozone standard.

However, in New York's December 2014 SIP submittal, the State indicates that the RACT requirements for the 2008 ozone NAAQS have been fulfilled with the exception of sources subject to the industrial cleaning solvents control techniques guidelines (CTG). In the State's submittal, New York committed

¹ The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979).

to address sources subject to this CTG through a timely revision to Part 226 entitled, "Solvent Metal Cleaning Processes" of Title 6 of the New York Codes, Rules and Regulations (6 NYCRR Part 226). Therefore, consistent with Section 110(k)(4) of the Clean Air Act, the EPA is conditioning its approval of New York's December 2014 SIP submittal on New York's commitment to submit, by a date certain but not later than one year after the date of the EPA's conditional approval of New York's December 2014 SIP submittal, a revised Part 226 addressing VOC emissions from industrial cleaning solvents. The State's commitment must be submitted to EPA, as a supplement to the SIP, and include a date certain by which the State will submit Part 226, and the date certain must be no later than one year from the effective date of the EPA's final rule making action on New York's December 2014 SIP submittal. New York must commit in writing to correct the deficiency discussed above.

The EPA is proposing to approve New York's RACT SIP as it applies to non-CTG major sources of VOCs and to major sources of NO_x. The EPA is also proposing to approve New York's certification that nonattainment new source review (NNSR) applies statewide for NO_x and VOC emissions from stationary sources.

It should be noted that a court ordered consent decree² requires that the EPA shall sign a notice of final rulemaking on New York's December 2014 RACT SIP no later than November 30, 2017.

II. What is the background for this proposed rulemaking?

In 2008, EPA revised the health based NAAQS for ozone, setting it at 0.075 parts per million (ppm) averaged over an 8-hour time frame. The EPA determined that the revised 8-hour standard would be more protective of human health, especially with regard to children and adults who are active outdoors and individuals with a pre-existing respiratory disease such as asthma.

On May 21, 2012 (77 FR 30087), the EPA finalized its attainment/nonattainment designations for areas across the country with respect to the 2008 8-hour ozone standard. This action became effective on July 20, 2012. The two 8-hour ozone marginal nonattainment areas located in New York State are the New York-Northern New Jersey-Long Island (NY-NJ-CT) nonattainment area and the Jamestown

² Center for *Biological Diversity v. Gina McCarthy*, Case No. 4:16-cv-04092-PJH (N.D.Ca.), Revised Consent Decree dated 1/19/17.

nonattainment area. The remainder of New York State was designated as unclassifiable/attainment. The New York portion of the NY-NJ-CT nonattainment area, also referred to as the New York Metropolitan Area (NYMA), is composed of the five boroughs of New York City and the surrounding counties of Nassau, Suffolk, Westchester, Rockland and the Shinnecock Indian Nation.³ The Jamestown nonattainment area is composed of Chautauqua County. On May 4, 2016 (81 FR 26697), the EPA determined that Jamestown attained the 2008 ozone standard by the July 20, 2015 attainment date and that the NY-NJ-CT nonattainment area did not attain the 2008 ozone standard by the applicable attainment date and is reclassified from a marginal to a moderate nonattainment area. State attainment plans for moderate nonattainment areas were due by January 1, 2017. Jamestown is still classified as a marginal nonattainment area until the State submits a redesignation request⁴ to the EPA. Since the NYMA has been reclassified to a moderate nonattainment area, New York plans to submit a new RACT determination as part of the State's attainment demonstration for the 2008 ozone standard.

The counties in the NYMA (and part of Orange County) were previously classified under the 1979 1-hour ozone NAAQS as severe, requiring RACT, while the remaining counties in the State were subject to RACT as part of the moderate classification or as part of the Ozone Transport Region (OTR). In the NYMA and other portions of Orange County, the previous severe classification resulted in a requirement for major sources to be defined as those having emissions of 25 tons per year or more for either VOC or NO_x.

In areas classified as moderate or areas located in the OTR (which includes all of New York State) under the 8-hour ozone standard, the definition for major sources in New York would have been 50 tons per year for VOC and 100 tons per year for NO_x. New York chose to retain the 1-hour

ozone plan emission threshold of 25 tons per year in the NYMA and a portion of Orange County for purposes of the RACT analysis which results in a more stringent evaluation of RACT. The rest of the state follows major source definitions as previously mentioned.

Sections 172(c)(1) and 182(b)(2) of the CAA require states to implement RACT in areas classified as moderate (and higher) nonattainment for ozone, while section 184(b)(1)(B) of the CAA requires RACT in states located in the OTR.

Specifically, these areas are required to implement RACT for all major VOC and NO_x emission sources and for all sources covered by a Control Techniques Guideline (CTG). A CTG is a document issued by the EPA which establishes a "presumptive norm" for RACT for a specific VOC source category. A related set of documents, Alternative Control Techniques (ACT) documents, exists primarily for NO_x control requirements. States must submit rules, or negative declarations when the State has no such sources, for CTG source categories, but not for sources in ACT categories. However, RACT must be imposed on major sources of NO_x, and some of those major sources may be within a sector covered by an ACT document.

On March 6, 2015 (80 FR 12264), the EPA published a final rule that outlined the obligations that areas found to be in nonattainment of the 2008 ozone NAAQS need to address. This rule, herein referred to as the "2008 ozone implementation rule," contained, among other things, a description of the EPA's expectations for states with RACT obligations. The 2008 ozone implementation rule indicated that states could meet RACT through the establishment of new or more stringent requirements that meet RACT control levels, through a certification that previously adopted RACT controls in their SIP approved by the EPA under a prior ozone NAAQS represents adequate RACT control levels for attainment of the 2008 ozone NAAQS, or a combination of these two approaches. In addition, a state must submit a negative declaration in instances where there are no CTG sources. The 2008 ozone implementation rule requires that states with nonattainment areas were required to submit RACT SIPs to EPA within two years from the effective date of nonattainment designation or by July 20, 2014.

III. What did New York submit?

On December 22, 2014, the New York Department of Environmental Conservation (NYSDEC or New York)

submitted to the EPA a formal revision to its SIP. The SIP revision consists of information documenting how New York complied with the RACT requirements for the 2008 8-hour ozone NAAQS. In its December 2014 RACT submittal, New York certifies that the State's submittal addresses the RACT requirements for the 2008 8-hour ozone standard, with the exception of the CTG for industrial cleaning solvents. In New York's December 2014 RACT submittal, the State commits to revise 6 NYCRR Part 226, "Solvent Metal Cleaning Processes," to fulfill that requirement in a timely manner.

In New York's December 2014 RACT submittal, the State evaluated its existing RACT regulations which were adopted to meet the 1997 8-hour ozone standard to ascertain whether the same regulations constitute RACT for the 2008 8-hour ozone standard. In making its new 8-hour ozone RACT determination, New York relied on EPA's RACT Question and Answer document (May 18, 2006) and the most recent emission control technology and cost evaluations to determine what constitutes technically and economically feasible controls for specific sources. Accordingly, the basic framework for New York's December 2014 RACT SIP determination is described as follows:

- Identify all source categories covered by CTG and ACT documents.
- Identify applicable regulations that implement RACT.
- Certify that the existing level of controls for the 1997 8-hour ozone standard equals RACT under the 2008 8-hour ozone standard in certain cases.
- Declare which sources covered by a CTG and ACT do not exist within the state and/or that RACT is not applicable in certain cases.
- Identify and evaluate applicability of RACT to individual sources whose source category does not have a presumptive emission limit covered by a state-wide regulation.
- Identify potential RACT revisions.
- Identify statewide applicability of nonattainment new source review (NNSR).

New York certified that, with the exception of Part 226, "Solvent Metal Cleaning Processes," which addresses VOC emissions from solvent metal cleaning processes, all RACT regulations with SIP approved State effective dates through the date when the RACT analysis was performed in 2014 are RACT for the 2008 8-hour ozone NAAQS because the RACT determinations issued by the State are consistent with the most recent control technology and economic

³ Information pertaining to areas of Indian country is intended for CAA planning purposes only and is not an EPA determination of Indian country status or any Indian country boundary. The EPA lacks the authority to establish Indian country land status, and makes no determination of Indian country boundaries at 77 FR 30087 (May 21, 2012).

⁴ EPA's determination of attainment does not constitute a redesignation to attainment. Redesignation requires states to meet a number of additional statutory criteria, including the EPA approval of a state plan demonstrating maintenance of the air quality standard for 10 years after redesignation. (81 FR 26697 at 26701; May 4, 2016).

considerations. The following discusses the results of New York's analysis of RACT for the basic framework identified above.

CTGs and ACTs

New York reviewed its existing RACT regulations adopted under the 1979 1-hour and 1997 8-hour ozone standard to identify source categories covered by the EPA's CTG and ACT documents. New York's RACT SIP submittal lists the CTG and ACT documents and

corresponding State RACT regulations that cover the CTG and ACT sources included in New York's emissions inventory. For non-CTG major sources, 6 NYCRR Part 212, "General Process Emission Sources," regulates RACT compliance for VOC and NO_x. Major sources of NO_x are regulated by 6 NYCRR Part 227-2, "Reasonably Available Control Technology (RACT) for Major Facilities of Oxides of Nitrogen (NO_x)." In its December 2014

SIP submittal, New York certifies that major non-CTG sources are covered by the Part 212 RACT regulation.

With the exception of VOC emissions from industrial cleaning solvents, New York has implemented RACT controls state-wide for all CTGs that the EPA has issued as of December 2014. The following table lists the RACT controls that have been promulgated in 6 NYCRR and the corresponding EPA SIP approval dates.

NY regulation	Title	EPA approval date
Part 205	Architectural and Industrial Maintenance Coatings	12/13/04, 69 FR 72118
Part 211	General Prohibitions	7/12/13, 78 FR 41846
Part 212	General Process Emission Sources	7/12/13, 78 FR 41486
Part 214	Byproduct Coke Oven Batteries	7/20/06, 71 FR 41163
Part 216	Iron and/or Steel Processes	7/20/06, 71 FR 41163
Part 220	Portland Cement and Glass Plants	7/12/13, 78 FR 41486
Part 223	Petroleum Refineries	7/19/85, 50 FR 29382
Part 224	Sulfuric and Nitric Acid Plants	7/19/85, 50 FR 29382
Part 226	Solvent Metal Cleaning Processes	1/23/04, 69 FR 3237
Part 227-2	RACT for Oxides of Nitrogen (NO _x)	7/12/13, 78 FR 41486
Part 228	Surface Coating Processes	3/04/14, 79 FR 12084
Part 229	Petroleum and Volatile Organic Liquid Storage and Transfer	12/23/97, 62 FR 67006
Part 230	Gasoline Dispensing Sites and Transport Vehicles	4/30/98, 63 FR 23668
Part 232	Dry Cleaning	6/17/85, 50 FR 25079
Part 233	Pharmaceutical and Cosmetic Processes	12/23/97, 62 FR 67006
Part 234	Graphic Arts	3/08/12, 77 FR 13974
Part 236	Synthetic Organic Chemical Manufacturing Facility Component Leaks	7/27/93, 58 FR 40059

New York's December 2014 RACT submittal contains a table (see Appendix A: Control Technique Guidelines and Alternative Control Techniques Documents) listing all the CTG categories and the corresponding State regulations or negative declarations that address the requirements. The EPA had previously approved and incorporated into the SIP all of the State's regulations identified in Appendix A that address CTGs.

For many source categories, the existing New York rules have more stringent emission limits and/or lower thresholds of applicability than the recommendations contained in the CTG and ACT documents. In its submittal, New York identified some categories where controls may be more stringent than the recommended levels contained in the CTG and ACT documents and these are identified below in the section entitled "Additional Control Measures Needed for Attainment." New York considers and certifies that its SIP approved regulations meet the RACT requirements for the 2008 8-hour ozone standard.

Source Categories Not Applicable in New York State

New York previously certified to the satisfaction of the EPA (40 CFR 52.1683(a)) that no sources are located

in the nonattainment area of the State which are covered by the following CTGs: (1) Natural Gas/Gasoline Processing Plants; (2) Air Oxidation Processes at Synthetic Organic Chemical Manufacturing Industries; and (3) Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins. In addition, New York previously certified to the satisfaction of the EPA (40 CFR 52.1683(b)) that no sources are located in the State which are covered by the CTG for Fiberglass Boat Manufacturing Materials. New York has reviewed its emission inventory and emission statements as required under 6 NYCRR 202-2, "Emission Statement," for stationary sources and affirms that there are no sources within New York State for the following CTGs: (1) Manufacture of Vegetable Oils,⁵ and (2) Application of Agricultural Pesticides.

⁵ The CTG for the manufacturing of vegetable oils was published in June 1978 (see EPA-450/2-78-035) but in a March 1980 guidance document, entitled "Guidance for the Control of Volatile Organic Compounds Emitted by Ten Selected Source Categories," the EPA advised that the "states are not required, at this time, to develop regulations for the vegetable oil manufacturing industry." The EPA guidance has not been revised since the March 1980 guidance. At this time, the EPA considers the vegetable oil CTG as only guidance for states when they need to develop attainment plans in nonattainment areas.

In New York's September 2006 RACT submittal for the 1997 8-hour ozone standard, the State indicated that there were no sources in the State that are applicable to the CTG related to industrial cleaning solvents; the State, however, has since determined that there are sources in the State that are applicable to this CTG. In New York's December 2014 RACT submittal, the State commits to revise and adopt in a timely manner 6 NYCRR Part 226, "Solvent Metal Cleaning Processes," to fulfill the requirements of the CTG for industrial cleaning solvents. New York must commit to adopt and submit 6 NYCRR Part 226 to EPA by a date certain but no later than one year from the effective date of the EPA's final rule making action on New York's December 2014 SIP submittal.

Source-Specific RACT Determinations

The 8-hour ozone RACT analysis must address source-specific RACT as it applies to a single regulated entity. A source-specific RACT determination applies to sources that have obtained a facility-specific emission limit or an alternative emission limit, *i.e.*, a variance. A case-by-case RACT analysis is required for sources that are not defined by a specific source category covered by an existing state regulation, that are requesting a variance, or that are

not addressed by a CTG. New York's RACT guidance entitled, "DAR-20 Economic and Technical Analysis for Reasonably Available Control Technology (RACT)" outlines the process and conditions for granting source-specific RACT determinations. Under the CAA, these individual source-specific RACT determinations need to be submitted by the State as a SIP revision for the EPA's approval. Therefore, New York included in Appendix B of its December 2014 RACT SIP submittal a listing of VOC and NO_x source facilities that are subject to a RACT source-specific SIP revision under the 8-hour ozone SIP and corresponding emission limits, technology and the applicable regulation governing the RACT determinations. Consistent with the CAA, in September 2008, August 2010, and December 2013, New York submitted to the EPA SIP revisions that included most of the source-specific RACT revisions identified in Appendix B of the RACT SIP submittals. The EPA is performing its technical review of those submittals and will take separate rulemaking actions for each of the source-specific determinations.

In addition, in accordance with New York's NO_x RACT regulation, Part 227-2, owners of combined cycle combustion turbines are required to perform case-by-case RACT determinations that may result in more stringent emission limits. This RACT requirement was approved into the SIP on July 12, 2013 (78 FR 41846).

Additional Control Measures Needed for Attainment

In some instances, New York has adopted regulations with emission limits that are more stringent than those recommended by the CTGs and ACTs. For example, Part 228, "Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers," Part 234, "Graphic Arts," Part 241, "Asphalt Pavement and Asphalt Based Surface Coatings," and Part 227-2, "Reasonably Available Control Technology (RACT) for Major Facilities of Oxides of Nitrogen (NO_x)" have each been adopted by the State with more stringent limits or applicability than what was recommended by the corresponding CTGs or ACTs.

In New York's December 22, 2014 RACT SIP submittal, the State's response to comments included an assessment that "once the NYMA is reclassified as 'moderate' nonattainment for the 2008 ozone NAAQS and an attainment SIP is required, DEC [New York] will undertake a review of its many NO_x control options to determine

which would most efficiently and effectively reduce emission in the NYMA." In this regard, the EPA recommends that New York quantify potential reductions for the following NO_x control options. New York has the opportunity to accomplish this when the State submits its RACT SIP for the NYMA which was recently reclassified to moderate. On July 19, 2017, New York, as part of its state rulemaking process, proposed its RACT SIP for the reclassified moderate NYMA.

Municipal Waste Combustors

During the public comment period on New York's 2008 ozone RACT proposal a comment was submitted to the State proposing that Municipal Waste Combustors (MWCs) in the NYMA should be controlled to at least the RACT level. In New York's response, the State indicated that once the NYMA is classified as moderate the State would undertake a review of its many control options to determine which would most effectively and efficiently reduce emissions in the NYMA. As stated previously, the NYMA was reclassified as a moderate nonattainment area effective June 2016. In its response to comment, New York estimated that potential NO_x reductions of 1.50 and 1.75 tons per day could be obtained from MWCs located in the NYMA. New York's neighboring states of New Jersey and Connecticut have adopted RACT emission limits for MWCs that are more stringent than New York's current permitted limits. New York regulates MWCs under Part 219 (Incinerators) and Part 200 (General Provisions). While New York's regulations are consistent with sections 111(d) and 129 of the CAA for solid waste incinerators, New York should consider more stringent limits for purposes of attaining the 2008 ozone NAAQS. CAA section 129 emission requirements are based on maximum achievable control technology (MACT) that is at least comparable or better than RACT requirements. The EPA considers this beyond RACT for purposes of today's rulemaking. Therefore, New York should consider more stringent RACT level NO_x emission limits for MWCs located in the NYMA to help attain the 2008 ozone NAAQS.

Simple Cycle Combustion Turbines (Firing Distillate Oil or More Than One Fuel)

New York's NO_x RACT regulation at Part 227-2 has set NO_x emission limits of 100 parts per million (ppmvd)⁶ for simple cycle combustion turbines firing

distillate oil or more than one fuel. New York's neighboring state of Connecticut has adopted more stringent NO_x emission limits of 40-75 ppm for June 2018 and 40-50 ppm for June 2023 for this source category. New Jersey has also adopted more stringent NO_x emission limits of 42 ppm.⁷ Therefore, New York should consider more stringent RACT level NO_x emission limits for simple cycle turbines located throughout the State for purposes of helping to attain the 2008 ozone NAAQS.

NYCRR Part 222 for Distributed Generation (DG)

New York has adopted 6 NYCRR Part 222 for DG to address peaking electric generation units which will help address emissions resulting from high electric demand days (HEDD). Assuming Part 222 remains in effect after current litigation concerning it is resolved, New York should submit Part 222 as a SIP revision for EPA approval. Alternatively, New York should consider other regulations for addressing HEDD. In addition, as stated previously, the EPA also recommends that New York review the simple cycle combustion turbine limit of 100 ppmvd and consider adopting a more stringent limit similar to that adopted by Connecticut.

Oil and Natural Gas CTG

On October 27, 2016, the EPA announced in the **Federal Register** (81 FR 74798) the availability of the oil and natural gas CTG. This CTG provides information for states to determine RACT for VOC emissions from certain oil and natural gas industry sources. The EPA recommends that New York review this CTG for possible statewide VOC reductions. Effected states are required to submit a SIP revision by October 20, 2018.

Statewide Nonattainment New Source Review (NNSR)

New York provides NNSR certification in the State's April 4, 2013 infrastructure SIP submittal for the 2008 ozone NAAQS. New York provides additional affirmation in its December 2014 RACT submittal that, since the State is located in the OTR, NNSR

⁷ 42 ppm is equivalent to 1.6 lb/megawatt-hour which is the limit at Table 7 of New Jersey's NO_x RACT regulation, Subchapter 19. Subchapter 19 at Table 7 notes that the limit is applicable to high electric demand day (HEDD) units or a stationary combustion turbine that is capable of generating 15 MW or more and that commenced operation on or after May 1, 2005. In accordance with Subchapter 19 definitions, units that commence operation on or after May 1, 2005 are neither HEDD nor non-HEDD units.

⁶ As measured on a dry volume basis and corrected to 15% oxygen.

applies statewide for emissions of VOC and NO_x for new major facilities or modifications to existing major or minor sources. New major facilities or modification to existing major or minor facilities in New York State are subject to the provisions of 6 NYCRR Part 231, "New Source Review for New and Modified Facilities." NNSR requires the application of Lowest Achievable Emission Rate (LAER) which is more stringent than RACT. Furthermore, New York certifies in its December 2014 submittal that the State also relies upon federal rules such as the National Emission Standards for Hazardous Air Pollutants (NESHAPs) regulated under CAA section 112. NESHAPs establish MACT which may be more stringent than RACT to control hazardous air pollutants. Therefore, the EPA is proposing to approve New York's certification that nonattainment NNSR applies statewide for NO_x and VOC emissions from stationary sources.

IV. What is the EPA's evaluation of New York's SIP submittal?

New York submitted a state-wide RACT assessment on December 22, 2014. The RACT submission from New York consists of: (1) A certification that previously adopted RACT controls in New York's SIP for various source categories that were approved by the EPA under the 1-hour and the 1997 8-hour ozone standards are based on the currently available technically and economically feasible controls and that they continue to represent RACT for the 2008 8-hour ozone standard for implementation purposes; (2) a number of source-specific RACT determinations submitted to the EPA for approval; (3) a negative declaration that for certain CTGs and/or ACTs there are no sources within New York State or that there are no sources within New York above the applicability threshold; and (4) a commitment to revise and adopt, and submit as a SIP revision a new or more stringent regulation Part 226, that represent a RACT control level for sources subject to the industrial cleaning solvents CTG.

The EPA has reviewed New York's RACT analysis and has determined that the state-wide RACT analysis submitted on December 22, 2014 does not fully address the RACT requirement consistent with section 182(b)(2) of the CAA because New York has not adopted the RACT measure, 6 NYCRR Part 226, related to sources subject to the industrial cleaning solvents CTG.

Therefore, the EPA is proposing to conditionally approve New York's state-wide RACT SIP based on the State's commitment to submit Part 226 by a

date certain but no later than one year from the effective date of the EPA's final rule making action on New York's December 2014 SIP submittal. The EPA encourages New York to accelerate its rulemaking process and adopt the control measures for sources subject to the industrial cleaning solvents CTG. The EPA is proposing to approve the remainder of New York's December 22, 2014 SIP submittal as it applies to non-CTG major sources of VOCs and to major sources of NO_x.

Furthermore, the EPA encourages New York to strengthen its ozone SIP by adopting, and submitting as SIP revisions, additional control measures needed for attainment of the 8-hour ozone standard by: (1) Considering the adoption of more stringent emission limits for MWCs located in the NYMA; (2) considering the adoption of more stringent emission limits for simple cycle combustion turbines firing distillate oil or more than one fuel; (3) adopting and submitting a regulation that addresses the October 2016 oil and natural gas CTG; and (4) submitting a SIP revision that addresses HEDD sources.

V. How could New York get full approval for this SIP revision?

The EPA is proposing to conditionally approve New York's state-wide RACT submittal dated December 22, 2014 for purposes of satisfying the 2008 8-hour ozone standard RACT requirement. New York must correct the deficiency discussed in section IV by revising, adopting and submitting to the EPA, a new or more stringent regulation, Part 226, that represent a RACT control level for sources subject to the industrial cleaning solvents CTG. New York must commit to adopt and submit Part 226 to EPA as a SIP revision by a date certain but not later than one year from the EPA's final action on this SIP action.

The EPA's conditional approval relates to New York's state-wide RACT SIP revision as it applies to the relevant CAA CTG requirements for VOC major sources. The EPA is proposing to approve the remainder of New York's December 22, 2014 SIP submittal as it applies to non-CTG major sources of VOCs and to major sources of NO_x. The EPA is also proposing to approve New York's NNSR certification as sufficient for purposes of the 2008 ozone NAAQS.

Under section 110(k) of the CAA, the EPA may conditionally approve a plan revision based on a commitment by the State to adopt specific enforceable measures by a date certain but not later than one year after the date of approval of the plan revision. If the EPA

conditionally approves the commitment in a final rulemaking action, the State must meet its commitment to submit Part 226 that addresses the industrial cleaning solvents CTG. If New York fails to meet its commitment within the specified time period for any portion of the deficient SIP requirement discussed in section IV above, the conditional approval will, by operation of law, become a disapproval. The EPA will notify the State by letter that this action has occurred. At that time, this commitment will no longer be a part of the approved SIP for New York and an 18 -month clock for sanctions under CAA section 179(a)(2) and a two-year clock for a federal implementation plan (FIP) under CAA section 110(c)(1) would commence. The EPA subsequently will publish a document in the **Federal Register** notifying the public that the conditional approval converted to a disapproval. If New York meets its commitment within the applicable time frame, the conditionally approved submission will remain as part of the SIP until the EPA takes final action approving or disapproving the SIP requirement in question.

If the EPA disapproves a State's new submittal, the conditionally approved RACT SIP for the 2008 ozone standard will also be disapproved at that time. If the EPA approves the submittal, the State's RACT SIP for the 2008 ozone standard will be fully approved in its entirety and replace the conditionally approved RACT SIP for the 2008 ozone RACT standard in the SIP.

The EPA is soliciting public comments on the issues discussed in this proposal. These comments will be considered before the EPA takes final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments as discussed in the **ADDRESSES** section of this rulemaking.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely 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 affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking action, pertaining to New York's 2008 8-hour ozone RACT submission does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: September 6, 2017.

Catherine R. McCabe,

Acting Regional Administrator, Region 2.

[FR Doc. 2017–19453 Filed 9–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R06–RCRA–2016–0680; FRL–9966–54–Region 6]

Arkansas: Final Authorization of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: During a review of Arkansas' regulations, the Environmental Protection Agency (EPA) identified a variety of State-initiated changes to Arkansas' hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The EPA proposes to authorize the State for the program changes. In addition, the EPA proposes to codify in the regulations entitled "Approved State Hazardous Waste Management Programs", Arkansas' authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that the EPA will enforce under RCRA. The purpose of this **Federal Register** document is to codify Arkansas' base hazardous waste management program and its revisions to that program.

DATES: Send written comments by October 16, 2017.

ADDRESSES: Submit any comments identified by Docket ID No. EPA–R06–RCRA–2016–0680 by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Email:* patterson.alima@epa.gov.

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, RCRA Permit Section (RPM), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, RCRA Permit Section (RPM), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–RCRA–2016–0680. EPA's policy is that all comments received will be included in the public docket without change and may be available online at <http://www.regulations.gov>, including any

personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be Confidential Business Information (CBI) or otherwise protected through <http://www.regulations.gov> or email. The Federal <http://www.regulations.gov> Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. You can view and copy the documents that form the basis for this authorization and codification and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following location: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number: (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT:

Alima Patterson, Region 6, Regional Authorization Coordinator, RCRA Permit Section (6MM–RP), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, phone number: (214) 665–8533, mail address: patterson.alima@epa.gov.

SUPPLEMENTARY INFORMATION: The EPA has already provided notices and opportunity for comments on the Agency's decisions to codify the Arkansas program, and the EPA is not now reopening the decisions, nor requesting comments, on the Arkansas authorization program. In the "Rules and Regulations" section of this **Federal Register**, the EPA is authorizing the State-initiated changes to the Arkansas

program, in addition to codifying and incorporating by reference the State's hazardous waste program as a direct final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this authorization and incorporation by reference in the preamble to the direct final rule. Unless we receive written comments which oppose the authorization in this codification document during the comment period,

the direct final rule will become effective 60 days after publication and we will not take further action on this proposal. If we receive comments that oppose the authorization, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

For additional information, please see the direct final rule published in the

“Rules and Regulations” section of this **Federal Register**.

Authority: This rule is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: July 27, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2017-18875 Filed 9-13-17; 8:45 am]

BILLING CODE 6560-50-P

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Ambar Esthela Morales, Inmate Number: 42245–408, FMC Carswell, Federal Medical Center, P.O. Box 27137, Fort Worth, TX 76127;

On March 23, 2016, in the U.S. District Court for the District of Arizona, Ambar Esthela Morales (“Morales”) was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (“AECA”). Specifically, Morales was convicted of knowingly and willfully attempting to export from the United States to Mexico defense articles designated on the United States Munition List, namely, 7,942 rounds of 7.62 x 39mm caliber ammunition, without the required U.S. Department of State license. Morales was sentenced to three years in prison, three years of supervised release, and a \$100 assessment.

Section 766.25 of the Export Administration Regulations (“EAR” or “Regulations”)¹ provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation,

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at <http://uscdoe.house.gov>)) (“EAA” or “the Act”). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security’s Office of Exporter Services may revoke any Bureau of Industry and Security (“BIS”) licenses previously issued pursuant to the Export Administration Act (“EAA” or “the Act”) or the Regulations in which the person had an interest at the time of her conviction.

BIS has received notice of Morales’s conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Morales to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Morales.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Morales’s export privileges under the Regulations for a period of five years from the date of Morales’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Morales had an interest at the time of her conviction.

Accordingly, it is hereby *ordered*:
First, from the date of this Order until March 23, 2021, Ambar Esthela Morales, with a last known address of Inmate Number: 42245–408, FMC Carswell, Federal Medical Center, P.O. Box 27137, Fort Worth, TX 76127, and when acting for or on her behalf, her successors, assigns, employees, agents or representatives (“the Denied Person”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Morales by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Morales may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Morales, and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until March 23, 2021.

Dated: September 8, 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017-19526 Filed 9-13-17; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Dmitrii Karpenko, a/k/a Simon Fox, Pavlova St 11-75, Nevinnomyssk, Stavropol Region, Russia; Order Denying Export Privileges

On April 28, 2017, in the U.S. District Court for the Eastern District of New York, Dmitrii Karpenko, a/k/a Simon Fox (“Karpenko”) was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)) (“IEEPA”). Specifically, Karpenko was convicted of violating Section 206 of IEEPA, 50 U.S.C. 1705, by willfully conspiring with others to export from the United States to Russia microelectronics items controlled pursuant to the Export Administration Regulations (“EAR” or “Regulations”),¹

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601-4623 (Supp. III 2015)) (available at <http://uscdoe.house.gov>) (“EAA” or “the Act”). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International

and under the jurisdiction of the Bureau of Industry and Security (“BIS”), U.S. Department of Commerce (“DOC”), without the required BIS/DOC license. Karpenko was sentenced to time served and an assessment of \$100.00.

Section 766.25 of the Regulations provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b));] or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that BIS’s Office of Exporter Services may revoke any BIS licenses previously issued pursuant to the Export Administration Act (“EAA” or “the Act”) or the Regulations in which the person had an interest at the time of his conviction.

BIS has received notice of Karpenko’s conviction for violating IEEPA, and has provided notice and an opportunity for Karpenko to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Karpenko.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Karpenko’s export privileges under the Regulations for a period of five (5) years from the date of Karpenko’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Karpenko had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until April 28, 2022, Dmitrii Karpenko, a/k/a Simon Fox, with a last known address of Pavlova Street 11-75, Nevinnomyssk, Stavropol Region, Russia, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied

Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

Person”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph,

servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Karpenko by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Karpenko may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Karpenko and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until April 28, 2022.

Dated: September 8, 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017-19527 Filed 9-13-17; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Alexey Krutilin, a/k/a David Powell, 16 Melioratorov Street, Ivanovskoe Village, Stavropol Region, Russia 357020; Order Denying Export Privileges

On April 28, 2017, in the U.S. District Court for the Eastern District of New York, Alexey Krutilin a/k/a David Powell (“Krutilin”) was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)) (“IEEPA”). Specifically, Krutilin was convicted of violating Section 206 of IEEPA, 50 U.S.C. 1705, by willfully conspiring with others to export from the United States to Russia microelectronics items controlled pursuant to the Export Administrations Regulations (“EAR” or “Regulations”),¹

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015)) (available at <http://uscodes.house.gov>) (“EAA” or “the Act”). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential

and under the jurisdiction of the Bureau of Industry and Security (“BIS”), U.S. Department of Commerce (“DOC”), without the required BIS/DOC license. Krutilin was sentenced to time served and an assessment of \$100.00.

Section 766.25 of the Regulations provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that BIS’s Office of Exporter Services may revoke any BIS licenses previously issued pursuant to the Export Administration Act (“EAA” or “the Act”) or the Regulations in which the person had an interest at the time of his conviction.

BIS has received notice of Krutilin’s conviction for violating IEEPA, and has provided notice and an opportunity for Krutilin to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Krutilin.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Krutilin’s export privileges under the Regulations for a period of ten (10) years from the date of Krutilin’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Krutilin had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until April 28, 2027, Alexey Krutilin a/k/a David Powell, with a last known address of 16 Melioratorov Street, Ivanovskoe Village, Stavropol Region, Russia 357020, and when acting for or

Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

on his behalf, his successors, assigns, employees, agents or representatives (“the Denied Person”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been

or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Krutilin by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Krutilin may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Krutilin and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until April 28, 2027.

Dated: September 8, 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017-19528 Filed 9-13-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-970]

Multilayered Wood Flooring From the People's Republic of China: Correction to the Final Results of Antidumping Duty Administrative Review; 2014-2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective September 14, 2017.

FOR FURTHER INFORMATION CONTACT:

Aleksandras Nakutis, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3147.

SUPPLEMENTARY INFORMATION: On June 5, 2017, the Department of Commerce (the Department) published the final results of the 2014-2015 administrative review of the antidumping duty order on multilayered wood flooring from the

People's Republic of China (PRC).¹ The period of review (POR) is December 1, 2014, through November 30, 2015. The Department is issuing this notice to correct an inadvertent error in the *Final Results*. Specifically, the Department granted a separate rate to Guandong Yihua Timber Industry Co., Ltd. (Yihua Timber); however, the Department failed to take into account the completion of a changed circumstances review on the antidumping duty order on multilayered wood flooring from the PRC.² In the *CCR*, the Department determined that Yihua Lifestyle Technology Co., Ltd. (Yihua Tech) is the successor-in-interest to Yihua Timber.³ As such, effective March 22, 2017, Yihua Tech is entitled to Yihua Timber's antidumping cash deposit rate with respect to entries of subject merchandise. The Department intends to send updated cash deposit instructions to U.S. Customs and Border Protection.

This correction to the final results of this administrative review is issued and published in accordance with sections 751(h) and 777(i) of the Tariff Act of 1930, as amended.

Dated: September 7, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017-19529 Filed 9-13-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-520-804]

Certain Steel Nails From the United Arab Emirates: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) determines that certain

¹ See *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Final Partial Rescission of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 25766 (June 5, 2017) (*Final Results*).

² See *Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Reviews*, 82 FR 14691 (March 22, 2017) (*CCR*).

³ *Id.*

steel nails (nails) from the United Arab Emirates (UAE) are being sold in the United States at less than fair value (LTFV). The period of review (POR) is May 1, 2015, through April 30, 2016.

DATES: Effective September 14, 2017.

FOR FURTHER INFORMATION CONTACT:

Susan Pulongbarit or Annathea Cook, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4031 or (202) 482-0250, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 31, 2017, the Department of Commerce (the Department) published the *Preliminary Results* of this antidumping duty administrative review of the antidumping order on nails from the UAE.¹ We invited parties to submit comments on the *Preliminary Results*, but we received no comments. The Department conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to the order is certain steel nails. The product is currently classified under Harmonized Tariff Schedule of the United States (HTSUS) 7317.00.55, 7317.00.65, and 7317.00.75. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.²

Analysis of Comments Received

As noted above, we have received no comments regarding the *Preliminary Results*.

Determination of No Shipments

As noted in the *Preliminary Results*, we received no shipment claims from two companies subject to this administrative review: Oman Fasteners LLC (Oman Fasteners) and Overseas International Steel Industry LLC (OISI). In the *Preliminary Results*, we preliminarily determined that these companies had no shipments of subject merchandise during the POR.³ We

¹ See *Certain Steel Nails from the United Arab Emirates: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 24941 (May 31, 2017) and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum) (*Preliminary Results*).

² For a complete description of the scope of this review, see *Preliminary Results*.

³ See *Preliminary Results* at 82 FR 24942.

received no comments from interested parties with respect to these claims. Therefore, because the record indicates that these companies did not export subject merchandise to the United States during the POR, we continue to find that Oman Fasteners and OISI had no shipments of subject merchandise during the POR.

Changes Since the Preliminary Results

As no parties submitted comments on the *Preliminary Results*, the Department has not modified its analysis from that presented in the *Preliminary Results*, and no decision memorandum accompanies this **Federal Register** notice. Further, the Department has made no adjustments to the determination that Overseas Distribution Services (ODS) did not cooperate to the best of its abilities to comply with the Department’s request for information. Accordingly, we continue to determine it appropriate to apply facts otherwise available with adverse inferences in accordance with sections 776(a) and (b) of the Act. For details regarding the issues raised in this proceeding, including the Department’s determination to apply adverse facts available to ODS, see the *Preliminary Results*.⁴

Final Results

The final weighted-average dumping margins are as follows:

Exporter/producer	Weighted-average dumping margin (percent)
Overseas Distribution Services Inc	184.41

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b), the Department has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise and deposits of estimated duties, where applicable, in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

For ODS, we will base the assessment rate for the corresponding entries on the margin listed above. Additionally, because the Department determined that Oman Fasteners and OISI had no shipments of merchandise during the POR, any suspended entries that entered

under their name will be liquidated at the all-others rate effective during the POR.⁵

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, as well as those companies listed in the “Determination of No Shipments” section, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.30 percent, the all-others rate established in the investigation.⁶ These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

Normally, the Department discloses to interested parties the calculations performed in connection with the final results within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because the weighted-average dumping margin assigned to ODS for these final results is based on adverse facts available, there are no calculations to disclose.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties

⁵ *Id.* at 24943.

⁶ See *Certain Steel Nails from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 77 FR 17029 (March 23, 2012).

occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

These final results are in accordance with sections 751(a)(a) and 777(i)(1) of the act and 19 CFR 351.213(h) and 351.221(b)(5).

Dated: September 7, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties for the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–19531 Filed 9–13–17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Advisory Committee on Windstorm Impact Reduction Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting via video conference.

SUMMARY: The National Advisory Committee on Windstorm Impact Reduction (NACWIR or Committee), will hold an open meeting continuing the work of the Committee via video conference on Monday, September 25, 2017, from 9:00 a.m. to 10:00 a.m. Eastern Time. The primary purpose of the meeting will be to finalize the Committee’s report on assessments and recommendations on the National Windstorm Impact Reduction Program. Interested members of the public will also be able to participate from remote locations. Instructions will be provided when members of the public register.

DATES: The NACWIR will hold a meeting via video conference on

⁴ *Id.*

Monday, September 25, 2017, from 9:00 a.m. until 10:00 a.m. Eastern Time. The meeting will be open to the public.

ADDRESSES: Questions regarding the meeting should be sent to the National Windstorm Impact Reduction Program Director, National Institute of Standards and Technology (NIST), 100 Bureau Drive, Mail Stop 8611, Gaithersburg, Maryland 20899.

Anyone wishing to participate must register by 5:00 p.m. Eastern Time, Monday, September 18, 2017. For instructions on how to participate in the meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Steve Potts, Management and Program Analyst, NWIRP, Engineering Laboratory, NIST, 100 Bureau Drive, Mail Stop 8611, Gaithersburg, Maryland 20899. He can also be contacted by email at Stephen.potts@nist.gov; or by phone at (301) 975-5412.

SUPPLEMENTARY INFORMATION: The NACWIR was established in accordance with the requirements of the National Windstorm Impact Reduction Act Reauthorization of 2015, Public Law 114-52. The NACWIR is charged with offering assessments and recommendations on—

- Trends and developments in the natural, engineering, and social sciences and practices of windstorm impact mitigation;
- the priorities of the Strategic Plan for the National Windstorm Impact Reduction Program (Program);
- the coordination of the Program;
- the effectiveness of the Program in meeting its purposes; and
- any revisions to the Program which may be necessary.

Background information on NWIRP and the Committee is available at <https://www.nist.gov/news-events/news/2016/07/nist-leads-federal-effort-save-lives-and-property-windstorms>.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the NACWIR will hold an open meeting continuing the work of the Committee via video conference on Monday, September 25, 2017, from 9:00 a.m. to 10:00 a.m. Eastern Time. The primary purpose of the meeting will be to finalize the Committee's report on assessments and recommendations on the National Windstorm Impact Reduction Program. The agenda and meeting materials will be posted on the NACWIR Web site at <https://www.nist.gov/el/mssd/nwirp/national-advisory-committee-windstorm-impact-reduction>.

All participants of the meeting are required to pre-register. Please submit

your first and last name, email address, and phone number to Steve Potts at Stephen.potts@nist.gov or (301) 975-5412. After pre-registering, participants will be provided with detailed instructions on how to join the video conference remotely. Approximately 10 minutes will be reserved from 9:45 a.m. to 9:55 a.m. Eastern Time for public comments.

Speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated, and those who were unable to participate are invited to submit written statements to NACWIR, National Institute of Standards and Technology, 100 Bureau Drive, MS 8611, Gaithersburg, Maryland 20899, or electronically by email to stephen.potts@nist.gov.

Pursuant to 41 CFR 102-3.150(b), this **Federal Register** notice for this meeting is being published fewer than 15 calendar days prior to the meeting as exceptional circumstances exist. It is imperative that the meeting be held on September 25, 2017 to accommodate the scheduling priorities of the key participants, who must maintain a strict schedule of meetings in order to complete the Committee's report by September 30, 2017, as required by Public Law 114-52. Notice of the meeting is also posted on the National Institute of Standards and Technology's Web site at <https://www.nist.gov/el/materials-and-structural-systems-division-73100/national-windstorm-impact-reduction-program-1>.

Kevin Kimball,

Chief of Staff.

[FR Doc. 2017-19520 Filed 9-13-17; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; North Pacific Observer Safety and Security Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to

take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 13, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at pracomments@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Special Agent Jaclyn Smith, NOAA Fisheries Office of Law Enforcement, 222 W. 7th Ave., #10, Anchorage, AK 99513, (907) 271-1869 or Jaclyn.Smith@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

NOAA National Marine Fisheries Service (NMFS) certified observers are a vital part of fisheries management. Observers are deployed to collect fisheries data in the field; observers often deploy to vessels and work alongside fishers for weeks and months at a time. The work environment observers find themselves in can be challenging, especially if observers find themselves a target for victim type violations such as sexual harassment, intimidation, or even assault. NOAA Fisheries' Office of Law Enforcement prioritizes investigations into allegations of sexual harassment, hostile work environment, assault and other complaints, which may affect observers individually. However, it is difficult for a person to disclose if they have been a victim of a crime, and law enforcement cannot respond if no complaint is submitted. The true number of observers who have experienced victim type crimes is unknown, and the reasons why they do not report is also unclear. More information is needed to understand how many observers per year experience victim type crimes, and why they chose not to report to law enforcement.

The Office of Law Enforcement, Alaska Division, is conducting a survey of North Pacific Observers to determine the number of observers who experienced victimizing behavior during deployments in 2016 and 2017. The survey will also investigate the reasons that prevented observers from

reporting these violations. The results of the survey will provide the Office of Law Enforcement a better understanding of how often observers are victimized, which will enable them to reallocate resources as needed, conduct more training for observers to ensure they know how to report, conduct training to ensure people understand what constitutes a victim crime, and to increase awareness of potential victimizations. Additionally, the survey results will help law enforcement understand the barriers to disclosure, so enforcement may begin to address these impediments so they no longer prevent observers from disclosure.

II. Method of Collection

Data will be collected on a voluntary basis, via an electronic survey to ensure anonymity. The survey will be offered to all observers who deployed in 2016 and 2017 in the North Pacific Observer Program. Individual data will not be released for public use.

III. Data

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Review: Regular (request for a new information collection).

Affected Public: Individuals or households.

Estimated Number of Respondents: 300.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 50 hours.

Estimated Total Annual Cost to Public: \$0 in recordkeeping/reporting costs.

IV. Request for Comments

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 11, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–19507 Filed 9–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Web Survey To Collect Economic Data From Anglers in the Gulf of Mexico

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 13, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at pracomments@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to David W. Carter, Economist, SEFSC, NMFS, 75 Virginia Beach Drive, Miami FL 33149, (305) 361–4467 or david.w.carter@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

The objective of the short survey will be to understand how anglers respond to changes in trip costs and fishing regulations in the Gulf of Mexico. We are conducting this survey to improve our ability to predict changes the number of fishing trips anticipated with changes in economic conditions or fishing regulations. This will improve the analysis of the economic effects of proposed changes in fishing regulations and changes in economic factors that affect the cost of fishing such as fuel prices.

The population consists of those anglers who fish in the Gulf of Mexico from Florida, including those who possess a license to fish, and those who are not required to have a license (e.g., seniors). We plan to independently sample from the frame designed for the Fishing Effort Survey (FES) of the Marine Recreational Fishing Program (MRIP). Anglers will be mailed a postcard that directs them to a Web site to complete the survey.

II. Method of Collection

The survey will be conducted using two modes: Mail and Internet.

III. Data

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Review: Regular (request for a new information collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 1500.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 125 hours.

Estimated Total Annual Cost to Public: \$0 in recordkeeping/reporting costs.

IV. Request for Comments

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 11, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–19508 Filed 9–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648-XE937

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Fisheries Research

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

ACTION: Notice; receipt of application for letters of authorization; request for comments and information.

SUMMARY: NMFS' Office of Protected Resources (OPR) has received a request from the NMFS Alaska Fisheries Science Center (AFSC) for authorization to take small numbers of marine mammals incidental to conducting fisheries research, over the course of five years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), OPR is announcing receipt of the AFSC's request for the development and implementation of regulations governing the incidental taking of marine mammals. OPR invites the public to provide information, suggestions, and comments on the AFSC's application and request.

DATES: Comments and information must be received no later than October 16, 2017.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to ITP.Laws@noaa.gov.

Instructions: OPR is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at www.nmfs.noaa.gov/pr/permits/incidental/research.htm without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not

submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: www.nmfs.noaa.gov/pr/permits/incidental/research.htm. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:**Background**

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

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

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

NMFS has defined "unmitigable adverse impact" in 50 CFR 216.103 as . . . an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

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

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

Summary of Request

On June 28, 2016, OPR received an adequate and complete application from the AFSC requesting authorization for take of marine mammals incidental to fisheries research conducted by the AFSC. We previously made this version of the application available for public review on October 18, 2016 (81 FR 71709), for a period of 30 days.

On September 6, 2017, AFSC presented substantive revisions to the application. First, AFSC has modified their analysis of potential take of marine mammals resulting from fisheries research activities that they conduct following a determination that take of sperm whales and killer whales is a reasonably anticipated outcome of those activities. These species are known to attempt depredation of the catch of longline operations, and although there are no known interactions between these species and research longline gear, there are records of such interactions between these species and commercial longline operations. Therefore, AFSC has modified their request for authorization of take to include small numbers of take of these species specifically incidental to fisheries research using bottom longline gear.

Second, AFSC has determined it appropriate to incorporate the fisheries research activities of the International Pacific Halibut Commission (IPHC) into their specified activity. The IPHC, established by a Convention between the governments of Canada and the U.S., is an international fisheries organization mandated to conduct research on and management of the stocks of Pacific halibut (*Hippoglossus stenolepis*) within the Convention waters of both nations. Although operating in U.S. waters (and, therefore, subject to the MMPA prohibition on "take" of marine mammals), the IPHC is not appropriately considered to be a U.S. citizen (as defined by the MMPA) and

cannot be issued an incidental take authorization. IPHC activity and requested take authorization is described in Appendix C of AFSC's application.

Aside from section 6.1 (describing the requested take authorization incidental to AFSC-conducted activities) and Appendix C (describing IPHC activities and associated take authorization request), the AFSC application is unchanged from the version made available for review in 2016.

The requested regulations would be valid for five years from the date of issuance. The AFSC plans to conduct fisheries research surveys in multiple geographic regions, including the Gulf of Alaska, Bering Sea, and Arctic Ocean. The IPHC operates in the Bering Sea, Gulf of Alaska, and waters off the U.S. west coast. It is possible that marine mammals may interact with fishing gear (e.g., trawls nets, longlines) used in AFSC's and IPHC's fisheries research projects, resulting in injury, serious injury, or mortality. In addition, the AFSC operates active acoustic devices that have the potential to disturb marine mammals. Because the specified activities have the potential to take marine mammals present within these action areas, the AFSC requests authorization to take multiple species of marine mammal that may occur in these areas, incidental to the activities planned by AFSC and IPHC.

Specified Activities

The Federal Government has a responsibility to conserve and protect living marine resources in U.S. federal waters and has also entered into a number of international agreements and treaties related to the management of living marine resources in international waters outside the United States. NOAA has the primary responsibility for managing marine fin and shellfish species and their habitats, with that responsibility delegated within NOAA to NMFS.

In order to direct and coordinate the collection of scientific information needed to make informed management decisions, Congress created six Regional Fisheries Science Centers, each a distinct organizational entity and the scientific focal point within NMFS for region-based, Federal fisheries-related research. This research is aimed at monitoring fish stock recruitment, abundance, survival and biological rates, geographic distribution of species and stocks, ecosystem process changes, and marine ecological research. The AFSC is the research arm of NMFS in U.S. waters off of Alaska.

As noted above, the IPHC is an international organization dedicated to conducting research in support of increasing and maintaining knowledge of halibut biology and stock assessment.

Research is aimed at monitoring fish stock recruitment, survival and biological rates, abundance and geographic distribution of species and stocks, and providing other scientific information needed to improve our understanding of complex marine ecological processes. The AFSC and IPHC propose to administer and conduct these survey programs over the five-year period.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the AFSC's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the AFSC and IPHC, if appropriate.

Dated: September 11, 2017.

Catherine Marzin,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017-19544 Filed 9-13-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF362

Endangered and Threatened Species; File No. 21316

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

ACTION: Notice; receipt of application.

SUMMARY: NMFS has received an application from Barney M. Davis L.P. for an incidental take permit, pursuant to the Endangered Species Act (ESA) of 1973, as amended, for Barney M. Davis Power Station in Corpus Christi, TX. The facility monitors the intake canal in an effort to intercept sea turtles prior to their contact with the facility's cooling water intake structure. The facility is requesting the permit be issued for a duration of 10 years.

Although the facility has been in operation since 1974, the presence of sea turtles in the intake canal has only occurred during the past 10 years, and is associated with cold-stunning events. Under the proposed action, when a sea

turtle is located in the intake canal of the facility, the sea turtle will be collected by Texas Parks and Wildlife Department and held at their nearby facility until the United States Fish and Wildlife Service collects the sea turtles for tagging and rehabilitation at the Animal Rehabilitation Keep prior to release back into the Gulf of Mexico. Although every effort will be made to intercept sea turtles prior to the cooling water intake structure, it is possible that a stunned sea turtle may become impinged on the automatic rake prior to entering the structure. Although unlikely, due to the physical characteristics and operations of the structure, any impingement of turtles would be lethal.

NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on this document. All comments received will become part of the public record and will be available for review.

DATES: Written comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before October 16, 2017.

ADDRESSES: The application is available for download and review at http://www.nmfs.noaa.gov/pr/permits/esa_review.htm under the section heading ESA Section 10(a)(1)(B) Permits and Applications. The application is also available upon written request or by appointment in the following office: Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13752, Silver Spring, MD 20910; phone (301) 427-8403; fax (301) 713-4060.

You may submit comments, identified by NOAA-NMFS-2017-0104, by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0104](http://www.regulations.gov/) click the "Comment Now" icon, complete the required fields, and enter or attach your comments.

- **Fax:** (301) 713-4060; Attn: Ron Dean.

- **Mail:** Submit written comments to Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13535, Silver Spring, MD 20910; Attn: Ron Dean.

Instructions: You must submit comments by one of the above methods to ensure that we receive, document, and consider them. 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. All comments received are a part of the public record and will generally be posted for public viewing on <http://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. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Ron Dean, (301) 427-8445.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the 'taking' of a species listed as endangered or threatened. The ESA defines "take" to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Background

Pursuant to the ESA, NMFS reviewed in Barney Davis' December 23, 2015 application, including the conservation plan and analytical methods for estimating potential takes. After discussions with NMFS, Barney Davis submitted an updated application on November 4, 2016. NMFS and the applicant continued discussions, and Barney Davis submitted all additional information on August 25, 2017 and the application was considered complete at that time. The duration of the proposed permit is 10 years.

Barney M. Davis, LP owns Barney M. Davis Power Station (the facility), a natural gas-fired electric power generating facility. The facility is located at 4301 Waldron Road, Corpus Christi, Nueces County, TX. The facility has approximately 1,992 acres of land between the Laguna Madre and Oso Creek and is comprised of two natural gas fired combustion turbines.

The facility has a 0.75-mile intake canal into the Laguna Madre leading to the facility's Cooling Water Intake Structure. The phenomenon of "cold-stunning" occurs to sea turtles in the waters around the facility's intake structure. During cooler months, sea turtles in the Laguna Madre cross the

entrance of the facility's intake canal to where water is cooler, and become "cold-stunned" and therefore unable to swim. Once the sea turtles are cold-stunned, they float into the facility's intake canal, toward the facility. The facility has experienced an increased occurrence in the number of sea turtles in the intake canal during the winter months (December-March). The facility currently coordinates with Texas Parks and Wildlife Department in the Coastal Conservation Association Marine Development Center to collect and relocate sea turtles that have migrated into the intake canal. The facility is applying for an Incidental Take Permit in accordance with rules established under Section 10(a)(1)(B) of the Endangered Species Act of 1973.

The permit application is for the incidental take of the North Atlantic Distinct Population Segment DPS of the ESA-listed threatened green turtle (*Chelonia mydas*) and the endangered Kemp's ridley sea turtle (*Lepidochelys kempii*). Based on data from the facility from 2012-2016, the proposed takes for any three-year period for the ten-year duration of the permit is 210 live and 39 dead green sea turtles, and 3 live Kemp's ridley sea turtles.

Conservation Plan

Section 10 of the ESA specifies that no permit may be issued unless an applicant submits an adequate habitat conservation plan. The conservation plan prepared by Barney Davis describes measures designed to minimize and mitigate the impacts of any incidental takes of ESA-listed green and Kemp's ridley sea turtles.

The facility has experienced an increased occurrence in the number of cold-stunned sea turtles in the intake canal during the winter months and currently coordinates with Texas Parks and Wildlife Department in the Coastal Conservation Association Marine Development Center to collect and relocate sea turtles that have migrated into the intake canal.

The facility utilizes a 0.75-mile cooling water intake canal leading to the Cooling Water Intake Structure (CWIS) from the Laguna Madre. To avoid and minimize take of sea turtles, Barney Davis proposes to have staff visually monitor the area a minimum of four times per every 12-hour shift. These visual assessments provide staff the opportunity to identify turtles in the canal prior to them reaching the intake structure. Facility staff responsible for monitoring the intake canal will be trained upon hiring, and again annually, on the proper procedures required for the collection of turtles. Photos of

potentially affected species are available to staff to assist them with species identification. Staff will be required to measure the length of the turtles collected to assist in estimating their age.

Barney M. Davis Power Station is an existing facility and there are no construction activities planned, nor additional funding. Continued monitoring related to the take of sea turtles will be ongoing and funding provided through the facility's annual operating budget.

National Environmental Policy Act

This notice is provided pursuant to section 10(c) of the ESA and the National Environmental Policy Act regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and submitted comments to determine whether the application meets the requirements of the ESA Section 10(a)(1)(B) permitting process. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed threatened Northwest Atlantic Distinct Population Segment of green turtles and Kemp's ridley sea turtles under the jurisdiction of NMFS.

Barney Davis evaluated three alternatives to the proposed action: (1) Seasonal outages of the facility during winter months when the incidence of take is higher; (2) additional monitoring equipment located prior to the intake structure; and (3) a "no action" alternative. The alternatives considered were determined to either be unfeasible, or to have no significant impact, or would result in an increase in adverse effects to sea turtles compared to the activity as proposed.

The final permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: September 8, 2017.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017-19482 Filed 9-13-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**Patent and Trademark Office****[Docket No.: PTO-C-2017-0030]****Notice of Roundtable on Intellectual Property and Trade Shows****AGENCY:** United States Patent and Trademark Office, Department of Commerce.**ACTION:** Notice of public roundtable.**SUMMARY:** The United States Patent and Trademark Office (USPTO) will host a roundtable discussion at its headquarters in Alexandria, Virginia, on October 18, 2017, on addressing intellectual property infringements at trade shows.**DATES:** The public roundtable will be held on Wednesday, October 18, 2017, from 9 a.m. to 4:30 p.m.**ADDRESSES:** The public roundtable will be held at the United States Patent and Trademark Office, Global Intellectual Property Academy, Madison Building (East), Second Floor, 600 Dulany Street, Alexandria, Virginia 22314. All major entrances to the building are accessible to people with disabilities.**FOR FURTHER INFORMATION CONTACT:** For further information regarding the public meeting, please contact Peter N. Fowler or Kortney Hammonds at the Office of Policy and International Affairs, by telephone at (571) 272-9300, by email at peter.fowler@uspto.gov, or kortney.hammonds@uspto.gov, or by postal mail addressed to: Mail Stop OPIA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, ATTN: Peter Fowler or Kortney Hammonds. Please direct all media inquiries to the Office of the Chief Communications Officer, USPTO, at (571) 272-8400.**SUPPLEMENTARY INFORMATION:** Trade shows can provide opportunities for both the willful and unintentional infringement of intellectual property rights. The transient nature of these events presents challenges for intellectual property rights holders to address an infringement, discover the infringement, take action against it, or, in some cases, even determine against whom to assert their legal rights.

The USPTO is hosting a public roundtable to discuss approaches, strategies, and effective practices for addressing the kinds of infringement that most often occur at trade fairs and shows, including the infringement of copyright, design, patent, and trademark. Topics to be explored will include: How U.S. Government agencies and the courts can be used effectively

when intellectual property rights are infringed at trade shows; legal measures and strategies available to rights holders before, during, and after a trade show; and recent and anticipated trends and challenges faced by rights holders and trade show operators. Speakers drawn from academia, civil and criminal litigation practice, rights holders and industry associations, and the U.S. Government will offer insights, observations, and experiences, on intellectual property infringements at trade shows. They will discuss how to deal with the challenges presented at trade shows, including legal strategies employed in removing allegedly infringing goods from a trade show venue.

Instructions and Information on the Public RoundtableThe public roundtable will be held at the United States Patent and Trademark Office, Global Intellectual Property Academy, Madison Building (East), Second Floor, 600 Dulany Street, Alexandria, Virginia 22314, and will begin at 9 a.m. and end at 4:30 p.m. The event will also be webcast and offered via interactive viewing at USPTO satellite offices in Dallas, Denver, Detroit, and San Jose. The agenda will be available a week before the meeting on the USPTO Web site, <https://www.uspto.gov/learning-and-resources/ip-policy/enforcement/intellectual-property-and-trade-shows>. Registration will be available at the same URL. Attendees may also register at the door thirty (30) minutes prior to the beginning of the meeting, however seating will be limited to no more than 90 persons, and priority will be given to those who preregister. Attendees at all locations, as well as those online, will have an opportunity to submit questions to the speakers, which will be addressed, time permitting, during the question and answer period of each panel session.The public roundtable will be physically accessible to people with disabilities. Individuals requiring accommodation, such as sign language interpretation or other ancillary aids, should communicate their needs to Kortney Hammonds in the Office of Policy and International Affairs, by telephone at (571) 272-1500, by email at kortney.hammonds@uspto.gov, or by postal mail addressed to: Mail Stop OPIA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, ATTN: Kortney Hammonds, at least seven (7) business days prior to the date of the public roundtable.

Dated: September 8, 2017.

Joseph Matal,*Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2017-19488 Filed 9-13-17; 8:45 am]

BILLING CODE 3510-16-P**COUNCIL ON ENVIRONMENTAL QUALITY****Initial List of Actions To Enhance and Modernize the Federal Environmental Review and Authorization Process****AGENCY:** Council on Environmental Quality.**ACTION:** Notice.**SUMMARY:** The Council on Environmental Quality (CEQ) is publishing its initial list of actions pursuant to Executive Order 13807 of August 15, 2017, titled "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," and published on August 24, 2017.**ADDRESSES:** This Initial List of Actions will be available at <https://www.whitehouse.gov/ceq> and on the National Environmental Policy Act (NEPA) Web site at <https://ceq.doe.gov/>.**FOR FURTHER INFORMATION CONTACT:** Council on Environmental Quality (Attn: Ted Boling, Associate Director for the National Environmental Policy Act), 730 Jackson Place NW., Washington, DC 20503. Telephone: (202) 395-5750. Email: NEPA@ceq.eop.gov.**SUPPLEMENTARY INFORMATION:** On August 15, 2017, the President signed Executive Order 13807 titled "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," which was published on August 24, 2017. 82 FR 40463. The Executive Order directs the Council on Environmental Quality (CEQ) to undertake a number of actions. In particular, Section 5(e)(i) of Executive Order 13807 provides that "[w]ithin 30 days of the date of this order, the CEQ shall develop an initial list of actions it will take to enhance and modernize the Federal environmental review and authorization process. Such actions should include issuing such regulations, guidance, and directives as CEQ may deem necessary to:

(A) Ensure optimal interagency coordination of environmental review and authorization decisions, including by providing for an expanded role and authorities for lead agencies, more clearly defined responsibilities for cooperating and

participating agencies, and Government-wide applicability of NEPA decisions and analyses;

(B) ensure that environmental reviews and authorization decisions involving multiple agencies are conducted in a manner that is concurrent, synchronized, timely, and efficient;

(C) provide for agency use, to the maximum extent permitted by law, of environmental studies, analysis, and decisions conducted in support of earlier Federal, State, tribal, or local environmental reviews or authorization decisions; and

(D) ensure that agencies apply NEPA in a manner that reduces unnecessary burdens and delays as much as possible, including by using CEQ's authority to interpret NEPA to simplify and accelerate the NEPA review process."

Pursuant to Section 5(e)(i) of Executive Order 13807, CEQ identifies the following initial list of actions that it intends to undertake to enhance and modernize the Federal environmental review and authorization process:

1. To comply with Section 5(b)(iv) of Executive Order 13807, CEQ intends to develop with the Office of Management and Budget (OMB), and in consultation with the Federal Permitting Improvement Steering Council (Permitting Council), a framework providing for the implementation of One Federal Decision. This framework may be supplemented with additional guidance and directives as needed.

2. To comply with Section 5(d) of Executive Order 13807, CEQ will refer various requests for designation of State projects pursuant to Executive Order 13766 to the Permitting Council, Department of Transportation and U.S. Army Corps of Engineers as appropriate. CEQ will, as appropriate in response to any additional requests from States, refer projects that qualify for designation as high priority projects in accordance with Section 5(d) of Executive Order 13807.

3. To comply with Section 5(e)(i) of the Executive Order, CEQ intends to (a) revise, modify or supplement its existing guidance regarding:

- i. Establishing, Applying, and Revising Categorical Exclusions under NEPA, with supporting information regarding established Categorical Exclusions;
- ii. Preparing Environmental Assessments;
- iii. Improving the Process for Preparing Efficient and Timely Environmental Reviews under NEPA;
- iv. Appropriate Use of Mitigation and Monitoring and Appropriate Use of Mitigated Findings of No Significant Impact; and
- v. Environmental Collaboration and Conflict Resolution;

(b) review existing CEQ Regulations implementing the procedural provisions of NEPA in order to identify changes needed to update and clarify those regulations; and

(c) issue such additional guidance to agency heads as CEQ may deem necessary to simplify and accelerate the NEPA process for infrastructure projects, including infrastructure-specific guidance to be compiled in a NEPA practitioners' handbook for infrastructure project proposals, to address issues including but not limited to the following:

- i. public involvement, including meetings and sufficiency of notice;
- ii. deference to the lead Federal agency with regard to key NEPA elements such as the development of the statement of purpose and need and range of alternatives;
- iii. appropriate cumulative impacts analysis methodologies or tools for infrastructure projects;
- iv. sources of information that may be relied upon in analyzing impacts;
- v. reliance on prior studies, analyses or decisions for projects within the same general locations; and
- vi. reliance on State, local and tribal environmental impacts analyses for purposes of NEPA.

4. To comply with Section 5(e)(iii), CEQ will convene an interagency Executive Order 13807 Working Group, consisting of agency Chief Environmental Review and Permit Officers, the OMB Director, and representatives of other such Federal agencies as CEQ shall deem appropriate. The working group shall review the NEPA implementing regulations and other environmental review and authorization procedures and policies of Federal agencies that are members of the Permitting Council to identify impediments to the efficient and effective processing of environmental reviews and authorizations for infrastructure projects and to identify agencies that require an action plan to address the identified impediments. Based on this review, involved Federal agencies shall develop their action plans setting forth the actions they will take as well as timelines for completing those actions, and submit their action plans to CEQ and OMB for comment. Each agency's action plan shall, at a minimum, establish procedures for a regular review and update of categorical exclusions, where appropriate. CEQ anticipates that the working group will address a number of issues relating to environmental reviews, including but not limited to consultations pursuant to Section 7 of the Endangered Species Act, compliance with Section 106 of the

National Historic Preservation Act, and permitting and certifications pursuant to the Clean Water Act.

(Authority: 42 U.S.C. 4332, 4342, 4344; 40 CFR Parts 1500, 1501, 1502, 1503, 1505, 1506, 1507, and 1508; E.O. 13807, 82 FR 40463.)

Issued in Washington, DC, on September 8, 2017.

Mary B. Neumayr,
Chief of Staff.

[FR Doc. 2017-19425 Filed 9-13-17; 8:45 am]

BILLING CODE 3225-F5-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2015-OS-0080]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs, DoD.

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs announces a proposed public 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 November 13, 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 Office of Military and Family Readiness Policy, Family Advocacy Program, 4800 Mark Center Drive, Suite 03G15, Alexandria, VA 22350-2300, ATTN: Mary Campise, or call 571-372-5346.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Central Registry: Child Abuse and Domestic Abuse Incident Reporting System; OMB Control Number 0704-0536.

Needs and Uses: The information collection requirement is necessary to conduct an annual collection and reporting of aggregated data from the Military Departments concerning domestic abuse and child abuse incidents. The data allows the Department to track aggregate trends and develop and promulgate policy to best serve individuals and families at risk and those impacted by domestic abuse and child abuse.

Affected Public: Individuals or households.

Annual Burden Hours: 17,357.

Number of Respondents: 23,143.

Responses per Respondent: 1.

Annual Responses: 23,143.

Average Burden per Response: 45 minutes.

Frequency: On occasion.

DoD Instruction 6400.01 Family Advocacy Program (FAP) establishes policy and assigns responsibility for addressing child abuse and neglect and domestic abuse through family advocacy programs and services. Each military service delivers a family advocacy program to their respective military members and their families.

Military or family members may use these services, and voluntary personal information must be gathered to determine benefit eligibility and individual needs.

Dated: September 11, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017-19524 Filed 9-13-17; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0116]

Agency Information Collection Activities; Comment Request; Gainful Employment Programs—Subpart Q

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 13, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2017-ICCD-0116. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216-34, Washington, DC 20202-4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202-377-4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department

assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Gainful Employment Programs—Subpart Q.
OMB Control Number: 1845-0123.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector; Individuals or Households; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 42,303,576.

Total Estimated Number of Annual Burden Hours: 3,777,952.

Abstract: The Student Assistance General Provisions regulations were amended by adding Subpart Q to Part 668, to establish measures for determining whether certain postsecondary educational programs lead to gainful employment in recognized occupations, and the conditions under which these educational programs remain eligible for student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA).

On June 16, 2017, the Department of Education (the Department) published a notice in the **Federal Register** announcing the intention to establish a negotiated rulemaking committee to revise the gainful employment regulations published on October 31, 2014. The Department anticipates scheduling the negotiated rulemaking sessions beginning in November or December 2017. There have been no changes to the regulations since the October 31, 2014 regulatory approval.

This clearance package includes §§ 668.405, 668.410, 668.411, 668.413, and 668.414. The burden related to

§ 668.412 was removed from this collection and applied to information collection 1845–0107 in February 2017 to more accurately associate the requirements of the regulations with the correct collection package.

Dated: September 11, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–19513 Filed 9–13–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0115]

Agency Information Collection Activities; Comment Request; Office of State Support Progress Check Quarterly Protocol

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before November 13, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2017–ICCD–0115. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–42, Washington, DC 20202–4537. **FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Patrick Carr, 202–708–8196.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed,

revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Office of State Support Progress Check Quarterly Protocol.

OMB Control Number: 1810–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 53.

Total Estimated Number of Annual Burden Hours: 636.

Abstract: The Office of State Support (OSS) administers Title I, Sections 1001–1004 (School Improvement); Title I, Part A (Improving Basic Programs Operated by Local Educational Agencies); Title I, Part B (Enhanced Assessments Grants (EAG), and Grants for State Assessments and Related Activities); Title II, Part A (Supporting Effective Instruction); Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement); and School Improvement Grants (SIG). Quarterly progress checks, phone or in-person conversations every three months of a fiscal year with State directors and coordinators, help ensure that State Educational Agencies (SEAs) are making progress toward increasing student achievement and improving the quality of instruction for all students through regular conversations about the quality of SEA implementation of OSS administered programs. The information shared with the OSS helps inform the selection and delivery of technical assistance to SEAs and aligns structures, processes, and routines so the OSS can

regularly monitor the connection between grant administration and intended outcomes. Progress checks also allow the OSS to proactively engage with SEAs to identify any issues ahead of formal monitoring visits, decreasing the need for enforcement actions and minimizing burden for SEAs. ED will collect this data from the 53 grantees that receive the grants listed above to inform its review of grantee implementation, outcomes, oversight, and accountability. In order to allow for a comprehensive program review of OSS grantees, we are requesting a three-year clearance with this form.

Dated: September 8, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–19487 Filed 9–13–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0118]

Agency Information Collection Activities; Comment Request; Gainful Employment Program—Subpart R—Cohort Default Rates

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 13, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2017–ICCD–0118. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Gainful Employment Program—Subpart R—Cohort Default Rates.

OMB Control Number: 1845–0121.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 1,559.

Total Estimated Number of Annual Burden Hours: 5,656.

Abstract: The Student Assistance General Provisions regulation was amended by adding Subpart R to 34 CFR part 668. Subpart R—Program Cohort Default Rates mirrors Subpart N—Cohort Default Rates where applicable. Subpart R established a programmatic cohort default rate (pCDR) for gainful employment (GE) programs, whereas Subpart N established an institutional cohort default rate (iCDR).

On June 16, 2017, the Department of Education (the Department) published a notice in the **Federal Register** announcing the intention to establish a

negotiated rulemaking committee to revise the gainful employment regulations published on October 31, 2014. The Department anticipates scheduling the negotiated rulemaking sessions beginning in November or December 2017.

The Department is requesting an extension without change of burden to the currently approved information collection as any new regulations will not be finalized before the expiration of this current package. There have been no changes to the regulations since the initial collection approval.

Dated: September 11, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–19515 Filed 9–13–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0117]

Agency Information Collection Activities; Comment Request; Gainful Employment Program—Subpart Q—Appeals for Debt to Earnings Rates

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 13, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2017–ICCD–0117. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection

activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Gainful Employment Program—Subpart Q—Appeals for Debt to Earnings Rates.

OMB Control Number: 1845–0122.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 792.

Total Estimated Number of Annual Burden Hours: 23,860.

Abstract: The Student Assistance General Provisions regulation was amended by adding Subpart Q to Part 668. This subpart applies to postsecondary educational programs that lead to gainful employment (GE) in recognized occupations. 1845–0122 pertains to § 668.406—Appeals for Debt to Earnings (D/E) rates. The regulations allow an institution to submit alternate earnings appeals to challenge the Secretary's determination of a GE program that is failing or in the zone based on the D/E rates calculated for a specific GE program.

On June 16, 2017, the Department of Education (the Department) published a

notice in the **Federal Register** announcing the intention to establish a negotiated rulemaking committee to revise the gainful employment regulations published on October 31, 2014. The Department anticipates scheduling the negotiated rulemaking sessions beginning in November or December 2017.

The Department is requesting an extension without change of burden to the currently approved information collection as any new regulations will not be available before the expiration of this current package. There have been no changes to the regulations since the initial approval of the information collection on November 3, 2014.

Dated: September 11, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017-19514 Filed 9-13-17; 8:45 am]

BILLING CODE 4000-01-P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Request for Comment on the Exposure Draft of a Proposed Statement of Federal Financial Accounting Standards (SFFAS), Amending Inter-Entity Cost Provisions

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92-463), as amended, and the FASAB Rules of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued an exposure draft of a proposed SFFAS entitled *Amending Inter-entity Cost Provisions*.

The exposure draft is available on the FASAB Web site at <http://www.fasab.gov/documents-for-comment/>. Copies can be obtained by contacting FASAB at (202) 512-7350.

Respondents are encouraged to comment on any part of the exposure draft. Written comments are requested by November 30, 2017, and should be sent to fasab@fasab.gov or Wendy M. Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW., Suite 6814, Mailstop 6H19, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW., Mailstop 6H19, Washington, DC 20548, or call (202) 512-7350.

Authority: Federal Advisory Committee Act, Pub. L. 92-463.

Dated: September 1, 2017.

Wendy M. Payne,
Executive Director.

[FR Doc. 2017-19064 Filed 9-13-17; 8:45 am]

BILLING CODE 1610-02-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0249]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 13, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501-3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-0249.

Title: Sections 74.781, 74.1281 and 78.69, Station Records.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions; State, Federal or Tribal Governments.

Number of Respondents and Responses: 13,811 respondents; 20,724 responses.

Estimated Time per Response: .375 hour-1 hour.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 11,726 hours.

Total Annual Cost: \$8,295,600.

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

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

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The information collection requirements contained in this collection are as follows:

47 CFR 74.781 information collection requirements include the following: (a) The licensee of a low power TV, TV

translator, or TV booster station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this Chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning. (2) The date and time the extinguishment or improper operation was observed or otherwise noted. (3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.765(c) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

47 CFR 74.1281 information collection requirements include the following: (a) The licensee of a station authorized under this Subpart shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment of improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the

licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.1265(b) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

47 CFR 78.69 requires each licensee of a CARS station shall maintain records showing the following:

(a) For all attended or remotely controlled stations, the date and time of the beginning and end of each period of transmission of each channel;

(b) For all stations, the date and time of any unscheduled interruptions to the transmissions of the station, the duration of such interruptions, and the causes thereof;

(c) For all stations, the results and dates of the frequency measurements made pursuant to § 78.113 and the name of the person or persons making the measurements;

(d) For all stations, when service or maintenance duties are performed, which may affect a station's proper operation, the responsible operator shall sign and date an entry in the station's records, giving:

(1) Pertinent details of all transmitter adjustments performed by the operator or under the operator's supervision.

(e) When a station in this service has an antenna structure which is required to be illuminated, appropriate entries shall be made as follows:

(1) The time the tower lights are turned on and off each day, if manually controlled.

(2) The time the daily check of proper operation of the tower lights was made, if an automatic alarm system is not employed.

(3) In the event of any observed or otherwise known failure of a tower light:

(i) Nature of such failure.

(ii) Date and time the failure was observed or otherwise noted.

(iii) Date, time, and nature of the adjustments, repairs, or replacements made.

(iv) Identification of Flight Service Station (Federal Aviation Administration) notified of the failure of any code or rotating beacon light not corrected within 30 minutes, and the date and time such notice was given.

(v) Date and time notice was given to the Flight Service Station (Federal Aviation Administration) that the required illumination was resumed.

(4) Upon completion of the 3-month periodic inspection required by § 78.63(c):

(i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators, and alarm systems.

(ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements, or repairs were made.

(f) For all stations, station record entries shall be made in an orderly and legible manner by the person or persons competent to do so, having actual knowledge of the facts required, who shall sign the station record when starting duty and again when going off duty.

(g) For all stations, no station record or portion thereof shall be erased, obliterated, or willfully destroyed within the period of retention required by rule. Any necessary correction may be made only by the person who made the original entry who shall strike out the erroneous portion, initial the correction made, and show the date the correction was made.

(h) For all stations, station records shall be retained for a period of not less than 2 years. The Commission reserves the right to order retention of station records for a longer period of time. In cases where the licensee or permittee has notice of any claim or complaint, the station record shall be retained until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-19535 Filed 9-13-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0568, OMB 3060-0991]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other

Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 13, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501-3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to

further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-0568.

Title: Sections 76.970, 76.971 and 76.975, Commercial Leased Access Rates, Terms and Conditions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit, State, Local or Tribal Government.

Number of Respondents and Responses: 4,030 respondents; 11,970 responses.

Estimated Time per Response: 2 minutes-10 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i) and 612 of the Communications Act of 1934, as amended.

Total Annual Burden: 59,671 hours.

Total Annual Cost: \$74,000.

Privacy Act Impact Assessment: No impact(s).

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

Needs and Uses: The information collection requirements for this collection are contained in the following rule sections:

47 CFR 76.970(h) requires cable operators to provide the following information within 15 calendar days of a request regarding leased access (for systems subject to small system relief, cable operators are required to provide the following information within 30 days of a request regarding leased access):

(a) A complete schedule of the operator's full-time and part-time leased access rates;

(b) How much of the cable operator's leased access set-aside capacity is available;

(c) Rates associated with technical and studio costs;

(d) If specifically requested, a sample leased access contract; and

(e) Operators must maintain supporting documentation to justify scheduled rates in their files.

47 CFR 76.971 requires cable operators to provide billing and collection services to leased access programmers unless they can demonstrate the existence of third party billing and collection services which, in terms of cost and accessibility, offer leased access programmers an

alternative substantially equivalent to that offered to comparable non-leased access programmers.

47 CFR 76.975(b) requires that persons alleging that a cable operator's leased access rate is unreasonable must receive a determination of the cable operator's maximum permitted rate from an independent accountant prior to filing a petition for relief with the Commission.

47 CFR 76.975(c) requires that petitioners attach a copy of the final accountant's report to their petition where the petition is based on allegations that a cable operator's leased access rates are unreasonable.

OMB Control Number: 3060-0991.

Title: AM Measurement Data.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,900 respondents; 3,335 responses.

Estimated Hours per Response: 0.50-25 hours.

Frequency of Response: Recordkeeping requirement, Third party disclosure requirement, On occasion reporting requirement.

Total Annual Burden: 20,780 hours.

Total Annual Cost: \$2,171,500.

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

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

Privacy Impact Assessment: No impact(s).

Needs and Uses: The following information collection requirements are contained in this collection:

47 CFR 73.54(c) requires that AM licensees file a letter notification with the FCC when determining power by the direct method. In addition, Section 73.54(c) requires that background information regarding antenna resistance measurement data for AM stations must be kept on file at the station.

47 CFR 73.54(d) requires AM stations using direct reading power meters to either submit the information required by (c) or submit a statement indicating that such a meter is being used.

47 CFR 73.61(a) states each AM station using a directional antenna with monitoring point locations specified in the instrument of authorization must make field strength measurements at the

monitoring point locations specified in the instrument of authorization, as often as necessary to ensure that the field at those points does not exceed the values specified in the station authorization. Additionally, stations not having an approved sampling system must make the measurements once each calendar quarter at intervals not exceeding 120 days. The provision of this paragraph supersedes any schedule specified on a station license issued prior to January 1, 1986. The results of the measurements are to be entered into the station log pursuant to the provisions of Section 73.1820.

47 CFR 73.61(b) states if the AM license was granted on the basis of field strength measurements performed pursuant to Section 73.151(a), partial proof of performance measurements using the procedures described in Section 73.154 must be made whenever the licensee has reason to believe that the radiated field may be exceeding the limits for which the station was most recently authorized to operate.

47 CFR 73.61(c) requires a station may be directed to make a partial proof of performance by the FCC whenever there is an indication that the antenna is not operating as authorized.

47 CFR 73.62(b) requires an AM station with a directional antenna system to measure and log every monitoring point at least once for each mode of directional operation within 24 hours of detection of variance of operating parameters from allowed tolerances.

47 CFR 73.68(c) states a station having an antenna sampling system constructed according to the specifications given in paragraph (a) of this section may obtain approval of that system by submitting an informal letter request to the FCC in Washington, DC, Attention: Audio Division, Media Bureau. The request for approval, signed by the licensee or authorized representative, must contain sufficient information to show that the sampling system is in compliance with all requirements of paragraph (a) of this section.

47 CFR 73.68(d) states in the event that the antenna monitor sampling system is temporarily out of service for repair or replacement, the station may be operated, pending completion of repairs or replacement, for a period not exceeding 120 days without further authority from the FCC if all other operating parameters and the field monitoring point values are within the limits specified on the station authorization.

47 CFR 73.68(e)(1) Special Temporary Authority (see Section 73.1635) shall be requested and obtained from the

Commission's Audio Division, Media Bureau in Washington to operate with parameters at variance with licensed values pending issuance of a modified license specifying parameters subsequent to modification or replacement of components.

47 CFR 73.68(e)(4) states request for modification of license shall be submitted to the FCC in Washington, DC, within 30 days of the date of sampling system modification or replacement. Such request shall specify the transmitter plate voltage and plate current, common point current, base currents and their ratios, antenna monitor phase and current indications, and all other data obtained pursuant to this paragraph.

47 CFR 73.68(f) states if an existing sampling system is found to be patently of marginal construction, or where the performance of a directional antenna is found to be unsatisfactory, and this deficiency reasonably may be attributed, in whole or in part, to inadequacies in the antenna monitoring system, the FCC may require the reconstruction of the sampling system in accordance with requirements specified above.

47 CFR 73.69(c) requires AM station licensees with directional antennas to file an informal request to operate without required monitors with the Media Bureau in Washington, DC, when conditions beyond the control of the licensee prevent the restoration of an antenna monitor to service within a 120 day period. This request is filed in conjunction with Section 73.3549.

47 CFR 73.69(d)(1) requires that AM licensees with directional antennas request to obtain temporary authority to operate with parameters at variance with licensed values when an authorized antenna monitor is replaced pending issuance of a modified license specifying new parameters.

47 CFR 73.69(d)(5) requires AM licensees with directional antennas to submit an informal request for modification of license to the FCC within 30 days of the date of antenna monitor replacement.

47 CFR 73.151(c)(1)(ix) states the orientation and distances among the individual antenna towers in the array shall be confirmed by a post-construction certification by a land surveyor (or, where permitted by local regulation, by an engineer) licensed or registered in the state or territory where the antenna system is located.

47 CFR 73.151(c)(2)(i) describes techniques for moment method modeling, sampling system construction, and measurements that must be taken as part of a moment method proof. A description of the

sampling system and the specified measurements must be filed with the license application.

47 CFR 73.151(c)(3) states reference field strength measurement locations shall be established in directions of pattern minima and maxima. On each radial corresponding to a pattern minimum or maximum, there shall be at least three measurement locations. The field strength shall be measured at each reference location at the time of the proof of performance. The license application shall include the measured field strength values at each reference point, along with a description of each measurement location, including GPS coordinates and datum reference.

47 CFR 73.154 requires the result of the most recent partial proof of performance measurements and analysis to be retained in the station records and made available to the FCC upon request. Maps showing new measurement points shall be associated with the partial proof in the station's records and shall be made available to the FCC upon request.

47 CFR 73.155 states a station licensed with a directional antenna pattern pursuant to a proof of performance using moment method modeling and internal array parameters as described in § 73.151(c) shall recertify the performance of that directional antenna pattern at least once within every 24 month period.

47 CFR 73.155(c) states the results of the periodic directional antenna performance recertification measurements shall be retained in the station's public inspection file.

47 CFR 73.158(b) requires a licensee of an AM station using a directional antenna system to file a request for a corrected station license when the description of monitoring point in relation to nearby landmarks as shown on the station license is no longer correct due to road or building construction or other changes. A copy of the monitoring point description must be posted with the existing station license.

47 CFR 73.3538(b) requires a broadcast station to file an informal application to modify or discontinue the obstruction marking or lighting of an antenna supporting structure.

47 CFR 73.3549 requires licensees to file with the FCC requests for extensions of authority to operate without required monitors, transmission system indicating instruments, or encoders and decoders for monitoring and generating the Emergency Alert System codes. Such requests must contain information as to when and what steps were taken to repair or replace the defective equipment and a brief

description of the alternative procedures being used while the equipment is out of service.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-19534 Filed 9-13-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0760]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before October 16, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email Nicholas_A_Fraser@omb.eop.gov; and to Nicole Ongele, FCC, via email PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418-2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060-0760.

Title: 272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order; Business Data Services

Report and Order, WC Docket No. 16-143 *et al.*

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 13 respondents; 66 responses.

Estimated Time per Response: 3-80 hours.

Frequency of Response: One-time reporting requirement; on-occasion reporting requirement; third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 1, 4(i)-(j), 201-205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)-(j), 201-205, and 303(r).

Total Annual Burden: 1,256 hours.

Total Annual Cost: \$61,050.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The information requested is not of a confidential nature. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: On April 28, 2017, the Commission released the *Business Data Services Order*, WC Docket No. 16-143 *et al.*, FCC 17-43, reforming the business data services/special access regulations for incumbent and competitive LECs. The Commission's reforms included replacing the application-based pricing flexibility rules with a new framework under which: (a) Packet-based services, time division multiplexing (TDM) services with bandwidth greater than 45 mbps, and TDM transport services are not subject to ex ante pricing regulation; (b) a new standard is applied to determine the extent to which the Commission regulates price cap LECs' TDM end user channel terminations with bandwidth less than 45 mbps and certain other low bandwidth business data services. Under this standard, a price cap LEC is not subject to ex ante pricing regulation in the provision of these services in counties deemed competitive under the Commission's competitive market test or for which the price cap LEC previously obtained Phase II pricing flexibility; (c) the price cap LEC is subject to ex ante pricing regulation in other counties where it is the incumbent LEC, but in these counties the price cap LEC has downward pricing flexibility (*i.e.*, the equivalent of Phase I pricing

flexibility under the prior rules); and (d) the Commission will update the competitive market test results every three years using data already collected in FCC Form 477.

Among other rules changes, the *Business Data Services Report and Order* repealed section 1.774, which set forth requirements for pricing flexibility applications, and added section 1.776, which limits the circumstances under which price cap LECs must file their business data services contracts as contract-based tariffs. The Commission also amended section 69.701 of its rules to specify that its pricing flexibility rules no longer apply to business data services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017-19533 Filed 9-13-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-XXXX]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control

number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before November 13, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to Nicole.Ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418-2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060-XXXX.

Title: Sections 15.37(k), 74.851(k), and 74.851(l), Consumer Disclosure and Labeling.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit, and Not-for-profit institutions.

Number of Respondents and

Responses: 5,100 respondents; 127,500 responses.

Estimated Time per Response: .25 hours

Frequency of Response: Third party disclosure requirement (disclosure and labeling requirement).

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of

information is contained in 47 U.S.C. 151, 154(i), 154(j), 301, 302a, 303(f), 303(g), and 303(r).

Total Annual Burden: 31,875 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: No information is requested that would require assurance of confidentiality.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) as a new collection after this 60-day comment period to obtain the full three-year clearance from them.

On August 11, 2015, the Commission released the *Wireless Microphones Report and Order* in Promoting Spectrum Access for Wireless Microphone Operations, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions GN Docket No. 14-166 and GN Docket No. 12-268. In this Report and Order, the Commission established certain consumer disclosure and labeling requirements in Sections 15.37(k), 74.851(k), and 74.851(l) relating to wireless microphones and wireless video assist devices; these requirements apply to persons who manufacture, sell, lease, or offer for sale or lease, wireless microphone or video assist devices—either (a) wireless microphones or other low power auxiliary stations (“wireless microphones”) or video assist devices, authorized pursuant to Part 74, Subpart H of the Commission's rules, or (b) unlicensed wireless microphones authorized pursuant to § 15.236—to the extent that these devices have been designed to operate on frequencies that are licensed to 600 MHz service band licensees that obtain licenses in the broadcast television incentive auction. The Commission directed that the Consumer and Governmental Affairs Bureau, following the close of the incentive auction, provide specific language to be used in consumer disclosure. The incentive auction closed on April 13, 2017.

On July 24, 2017, the Consumer and Governmental Affairs Bureau, Wireless Telecommunications Bureau, and the Office of Engineering and Technology of the Federal Communications Commission released an Order, Promoting Spectrum Access for Wireless Microphone Operations, Amendment of Part 15 of the Commission's Rules for Unlicensed Operations in the Television Bands, Repurposed 600 MHz Band, 600 MHz Guard Bands and Duplex Gap, and Channel 37, and, Amendment of Part 74 of the Commission's Rules for Low

Power Auxiliary Stations in the Repurposed 600 MHz Band and 600 MHz Duplex Gap, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Order, GN Docket No. 14–166, ET Docket No. 14–165, and GN Docket No. 12–268. In this Order, the Consumer and Governmental Affairs Bureau, Wireless Telecommunications Bureau, and the Office of Engineering and Technology provided the specific language that must be used in the consumer disclosure required by the Commission in its 2015 *Wireless Microphones Report and Order*, as set forth in Sections 15.37(k) and 74.851(l) of the Commission's rules. As the Order explains, the consumer disclosure requirement is applicable to persons who manufacture, sell, lease, or offer for sale or lease, wireless microphone or video assist devices *to the extent that these devices are capable of operating on the specific frequencies associated with the 600 MHz service band (617–652 MHz/663–698 MHz)*. This disclosure also informs consumers that, consistent with the Commission's decision in the 2015 *Wireless Microphones Report and Order*, wireless microphone users must cease any wireless microphone operations in the 600 MHz service band no later than July 13, 2020, and that in many instances they may be required to cease use of these devices earlier if their use has the potential to cause harmful interference to 600 MHz service licensees' wireless operations in the band.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–19532 Filed 9–13–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, September 19, 2017 at 10:00 a.m. and its continuation at the conclusion of the open meeting on September 20, 2017.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 52 U.S.C. 30109.

* * * * *

PERSON TO CONTACT FOR INFORMATION:
Judith Ingram, Press Officer, Telephone:
(202) 694–1220.

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2017–19672 Filed 9–12–17; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 11, 2017.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Rigler Investment Company*, New Hampton, Iowa; to acquire the voting shares of Green Circle Investments, Inc., Clive, Iowa and thereby indirectly acquire Peoples Trust and Savings Bank, Clive, Iowa.

Board of Governors of the Federal Reserve System, September 11, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–19546 Filed 9–13–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 11, 2017.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Associated Banc-Corp*, Green Bay, Wisconsin; to merge with Bank Mutual Corporation, Milwaukee, Wisconsin and thereby indirectly acquire Bank Mutual, Brown Deer, Wisconsin and thereby engage in operating a savings association, pursuant to section 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, September 11, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–19547 Filed 9–13–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) announces the following meeting of the Advisory Committee on Immunization Practices (ACIP).

This meeting is open to the public, limited only by the space available. Time will be available for public comment. The public is welcome to submit written comments in advance of the meeting. Comments should be submitted in writing by email to the contact person listed below. The deadline for receipt is October 11, 2017. Written comments must include full name, address, organizational affiliation, email address of the speaker, topic being addressed and specific comments. Written comments must not exceed one single-spaced typed page with 1-inch margins containing all items above. Only those written comments received 10 business days in advance of the meeting will be included in the official record of the meeting. Public comments made in attendance must be no longer than 3 minutes and the person giving comments must attend the public comment session at the start time listed on the agenda. Time for public comments may start before the time indicated on the agenda. The meeting will be webcast live via the World Wide Web; for instructions and more information on ACIP please visit the ACIP Web site: <http://www.cdc.gov/vaccines/acip/index.html>.

DATES: The meeting will be held on October 25, 2017, 8:00 a.m. to 6:00 p.m., EDT, and October 26, 2017 8:00 a.m. to 3:15 p.m. EDT.

ADDRESSES: 1600 Clifton Road NE., Atlanta, GA 30329, CDC, Tom Harkin Global Communications Center, Kent 'Oz' Nelson Auditorium.

FOR FURTHER INFORMATION CONTACT: Stephanie Thomas, ACIP Committee Management Specialist, CDC, NCIRD; email: ACIP@cdc.gov.

SUPPLEMENTARY INFORMATION:

Purpose: The committee is charged with advising the Director, CDC, on the use of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding dosing interval, dosage, and contraindications to administration of vaccines. Further, under provisions of the Affordable Care Act, section 2713 of the Public Health

Service Act, immunization recommendations of the ACIP that have been approved by the Director of the Centers for Disease Control and Prevention and appear on CDC immunization schedules must be covered by applicable health plans.

Matters to be Considered: The agenda will include discussions on adult immunization schedule, child/adolescent immunization schedule, influenza vaccines, anthrax vaccine, Japanese encephalitis vaccines, hepatitis vaccines, herpes zoster vaccines, human papillomavirus vaccines, mumps vaccine, pneumococcal vaccines, respiratory syncytial virus vaccine and immunization safety update. A recommendation vote is scheduled for adult immunization schedule, child/adolescent immunization schedule, hepatitis vaccines and herpes zoster vaccines. A Vaccines for Children vote is scheduled for hepatitis vaccines. Agenda items are subject to change as priorities dictate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017-19497 Filed 9-13-17; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Pub. L. 92-463.

Name of Committee: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Date: October 31–November 1, 2017.

Time: 8:00 a.m.–5:00 p.m., CST.

Place: The Wit Hotel, 201 North State Street, Chicago, Illinois 60601.

Agenda: The meeting will convene to address matters related to the conduct of Study Section business and for the study section to consider safety and occupational health-related grant applications.

For Further Information Contact: Price Connor, Ph.D., NIOSH Health Scientist, CDC 2400 Executive Parkway, Atlanta, Georgia 30345, (404) 498-2511, spc3@cdc.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017-19500 Filed 9-13-17; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—PAR 13-129, NIOSH Member Conflict Special Emphasis Panel.

Date: October 25, 2017.

Time: 1:00 p.m.–5:00 p.m., EDT.

Place: Teleconference.

Agenda: The meeting will include the initial review, discussion, and evaluation of applications received in response to PAR 13-129, NIOSH Member Conflict Special Emphasis Panel.

For Further Information Contact: Nina Turner, Ph.D. Scientific Review Officer, CDC, 1095 Willowdale Road, Morgantown, West Virginia 26506, (304) 285-5976, nxt2@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017-19499 Filed 9-13-17; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1700-N]

Medicare Program; Announcement of the Advisory Panel on Clinical Diagnostic Laboratory Tests Meeting

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the next public meeting date for the Medicare Advisory Panel on Clinical Diagnostic Laboratory Tests (the Panel) on September 25, 2017. The purpose of the Panel is to advise the Secretary of the Department of Health and Human Services (DHHS) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on issues related to clinical diagnostic laboratory tests (CDLTs).

DATES: *Meeting date:* The meeting of the Panel is scheduled for September 25, 2017, from 9 a.m. to 4 p.m., eastern daylight time (E.D.T.).

Deadline for Submission of Presentations: All presenters must submit their presentations and comments electronically to our CLFS dedicated email mailbox, CDLTPanel@cms.hhs.gov, by September 21, 2017 at 5 p.m. E.D.T.

FOR FURTHER INFORMATION CONTACT:

Glenn C. McGuirk, Designated Federal Official (DFO), email CDLTPanel@cms.hhs.gov. Press inquiries are handled through the CMS Press Office at (202) 690-6145. For additional information on the Panel, please refer to the CMS Web site at <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonClinicalDiagnosticLaboratoryTests.html>.

SUPPLEMENTARY INFORMATION: The Panel will make recommendations to the Secretary and the Administrator regarding payment for CDLTs for which CMS received no applicable information to calculate Medicare payment rates. The Panel did not deliberate and provide recommendations regarding the payment for these CDLTs during the

Public Meeting Regarding New and Reconsidered Clinical Diagnostic Laboratory Test Codes for the Clinical Laboratory Fee Schedule for Calendar Year (CY) 2018 (2017 CLFS Public Meeting) and the Panel meeting on July 31 through August 1, 2017.

I. Background

The Advisory Panel on Clinical Diagnostic Laboratory Tests is authorized by section 1834A(f)(1) of the Social Security Act (the Act) (42 U.S.C. 1395m-1), as established by section 216(a) of the Protecting Access to Medicare Act of 2014 (PAMA) (Pub. L. 113-93, enacted on April 1, 2014). The Panel is subject to the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory panels.

Section 1834A(f)(1) of the Act directs the Secretary of the Department of Health and Human Services (the Secretary) to consult with an expert outside advisory panel established by the Secretary, composed of an appropriate selection of individuals with expertise in issues related to clinical diagnostic laboratory tests. Such individuals may include molecular pathologists, researchers, and individuals with expertise in laboratory science or health economics.

The Panel will provide input and recommendations to the Secretary and the Administrator of CMS, on the following:

- The establishment of payment rates under section 1834A of the Act for new clinical diagnostic laboratory tests, including whether to use crosswalking or gapfilling processes to determine payment for a specific new test;
- The factors used in determining coverage and payment processes for new clinical diagnostic laboratory tests; and
- Other aspects of the new payment system under section 1834A of the Act.

A notice announcing the establishment of the Panel and soliciting nominations for members was published in the October 27, 2014 **Federal Register** (79 FR 63919 through 63920). In the August 7, 2015 **Federal Register** (80 FR 47491), we announced membership appointments to the Panel along with the first public meeting date for the Panel, which was held on August 26, 2015. Subsequent meetings of the Panel were also announced in the **Federal Register**. The Secretary approved rechartering of the Panel on April 25, 2017. The new charter is effective through April 25, 2019 and may be found on the CMS Web site at [*Guidance/Guidance/FACA/AdvisoryPanelonClinical*](https://www.cms.gov/Regulations-and-</p>
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DiagnosticLaboratoryTests.html. A notice announcing the rechartering of the Panel was published in the June 16, 2017 **Federal Register** (82 FR 27705).

The Panel charter provides that Panel meetings will be held up to 4 times annually and the Panel Chair will serve for a period of 3 years, which may be extended at the discretion of the Administrator or his or her duly appointed designee. Additionally, the Panel Chair facilitates the meeting and the Designated Federal Official (DFO) or DFO's designee must be present at all meetings.

Section 1834A of the Act requires revisions to the payment methodology for clinical diagnostic laboratory tests paid under the CLFS. We implemented the requirements of section 1834A of the Act in the CLFS final rule published in the June 23, 2016 **Federal Register** (81 FR 41036) entitled, "Medicare Program; Medicare Clinical Diagnostic Laboratory Tests Payment System." Under the CLFS final rule, reporting entities are required to report to CMS applicable information for their component applicable laboratories. The applicable information includes, for each CDLT furnished during a data collection period, the specific HCPCS code associated with the test, each private payor rate for which final payment has been made, and the associated volume of tests performed corresponding to each private payor rate. In general, the payment amount for a test on the CLFS furnished on or after January 1, 2018, will be equal to the weighted median of private payor rates determined for the test, based on the applicable information that is collected during a data collection period and reported to us during a data reporting period.

Under 42 CFR 414.507(g), payment for a clinical diagnostic laboratory test for which CMS receives no applicable information is based on the crosswalking or gapfilling methods described in § 414.508(b)(1) and (2). On August 4, 2017, CMS posted on the CLFS Web site a list of laboratory codes for which CMS received no applicable information to calculate Medicare payment rates based on the weighted median of private payor rates. During the 2017 CLFS Public Meeting and the Panel meeting on July 31 through August 1, 2017, CMS discussed these codes, however, the Panel did not deliberate and provide recommendations regarding the payment for these codes. During this meeting, the Panel will address any issues relating to this list of laboratory test codes, including making

recommendations to the Secretary of HHS and the Administrator of CMS regarding the following questions as it relates to these codes:

- Should the code be included on the CLFS?
- If the code should be included on the CLFS, what method of payment should be used to price the test codes (crosswalking or gapfilling, as required by 42 CFR 414.507(g))?
- If crosswalking, specify the crosswalk code(s).

The Panel will also provide input on other CY 2018 CLFS issues that are designated in the Panel's charter and specified on the meeting agenda.

II. Agenda

The Agenda for the September 25, 2017, Panel Meeting will provide for discussion and comment on the following topics as designated in the Panel's charter:

- CY 2018 CLFS laboratory test codes for which CMS received no applicable information to calculate a Medicare payment rate and was posted on August 4, 2017, on the CMS Web site at https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ClinicalLabFeeSched/Laboratory_Public_Meetings.html.
- Other CY 2018 CLFS issues designated in the Panel's charter and further described on our Agenda.
- CDLTs that will be discussed during this meeting is available on the CMS Web site, in the document entitled "2017 Clinical Laboratory Test Codes with No Data," at https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ClinicalLabFeeSched/Laboratory_Public_Meetings.html.

A detailed Agenda will be posted approximately 1 week before the meeting, on the CMS Web site at <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonClinicalDiagnosticLaboratoryTests.html>.

III. Special Accommodations

Individuals requiring special accommodations must include the request for these services during registration.

IV. Meeting Participation

This meeting is open to the public. As noted previously, the public may participate in the meeting via teleconference, webcast, and webinar. There will not be an in-person meeting location for this public Panel meeting.

In addition, meeting registration is required to access the meeting.

V. Panel Recommendations and Discussions

The Panel's recommendations will be posted after the meeting on the CMS Web site at <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonClinicalDiagnosticLaboratoryTests.html>.

VI. Additional Information

A. Webinar, Webcast, and Teleconference Meeting Information

The Panel meeting will be conducted only via webinar, webcast or by teleconference. The meeting registration information, teleconference dial-in instructions, and related webcast and webinar details will be posted on the meeting agenda, which will be available on the CMS Web site approximately 1 week prior to the meeting at <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonClinicalDiagnosticLaboratoryTests.html>.

B. Meeting Registration

Registration is required to participate in this teleconference public meeting. Interested participants will be able to access the registration, teleconference, webcast, and webinar instructions, by following the instructions on the meeting agenda. There is no deadline for meeting registration.

C. Deadline for Submission of Presentations

There will be an opportunity during the meeting for public presentations and oral comments. During the meeting, an individual will be limited to 1 minute of comments for each laboratory test code. All presenters for the meeting must register and submit their presentations and comments electronically to our CLFS dedicated email mailbox, CDLTPanel@cms.hhs.gov, by the date listed in the **DATES** section of this notice. Presenters should submit all presentations and comments using a standard PowerPoint template that is available on the CMS Web site at <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonClinicalDiagnosticLaboratoryTests.html>, under the "Panel Meetings" heading.

VI. Copies of the Charter

The Secretary's Charter for the Advisory Panel on Clinical Diagnostic

Laboratory Tests is available on the CMS Web site at <http://cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonClinicalDiagnosticLaboratoryTests.html> or you may obtain a copy of the charter by submitting a request to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

VII. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: September 8, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2017-19539 Filed 9-11-17; 4:15 pm]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Refugee Data Submission System for Formula Funds Allocation—ORR-5.

OMB No.: 0970-0043.

Description: The information collection, Refugee Data Submission System for Formula Funds Allocations, (ORR-5) satisfies the statutory requirements of the Immigration and Nationality Act (INA). Section 412(a)(3) of the Act requires the Director of the Office of Refugee Resettlement (ORR) to make a periodic assessment, based on refugee population and other relevant factors, of the relative needs of refugees for assistance and services and the resources available to meet those needs. This includes compiling and maintaining data on the secondary migration of refugees within the United States after arrival. Further, INA 412(c)(1)(B) states that formula funds shall be allocated based on the total number of refugees, taking into account secondary migration.

Respondents: States or replacement designees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR-5 Form	50	1	22	1,100

Estimated Total Annual Burden Hours: 1,100.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: infocollection@acf.hhs.gov.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project. Email: OIRA_SUBMISSION@OMB.EOP.GOV. Attn: Desk Officer for the Administration for Children and Families

Robert Sargis,
Reports Clearance Officer.

[FR Doc. 2017-19467 Filed 9-13-17; 8:45 am]
BILLING CODE 4184-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-N-0007]

Biosimilar User Fee Rates for Fiscal Year 2018

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the rates for biosimilar user fees for fiscal year (FY) 2018. The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Biosimilar User Fee Amendments of 2017 (BsUFA II), authorizes FDA to assess and collect user fees for certain activities in connection with biosimilar biological product development; review of certain applications for approval of biosimilar biological products; and each biosimilar

biological product approved in a biosimilar biological product application.

BsUFA II directs FDA to establish, before the beginning of each fiscal year, the amount of initial and annual biosimilar biological product development (BPD) fees, the reactivation fee, and the biosimilar biological product application and program fees for such year. These fees apply to the period from October 1, 2017, through September 30, 2018.

FOR FURTHER INFORMATION CONTACT:

David Haas, Office of Financial Management, Food and Drug Administration, 8455 Colesville Rd., COLE-14202I, Silver Spring, MD 20993-0002, 240-402-9845.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 744G, 744H, and 744I of the FD&C Act (21 U.S.C. 379j-51, 379j-52, and 379j-53), as amended by BsUFA II (title IV of the FDA Reauthorization Act of 2017, Pub. L. 115-52), authorizes the program of fees for biosimilar biological products. Under section 744H(a)(1)(A) of the FD&C Act, the initial BPD fee for a product is due when the sponsor submits an investigational new drug (IND) application that FDA determines is intended to support a biosimilar biological product application or within 5 calendar days after FDA grants the first BPD meeting, whichever occurs first. A sponsor who has paid the initial BPD fee is considered to be participating in FDA's BPD program for that product.

Under section 744H(a)(1)(B) of the FD&C Act, once a sponsor has paid the initial BPD fee for a product, the annual BPD fee is assessed beginning with the next fiscal year. The annual BPD fee is assessed for the product each fiscal year until the sponsor submits a marketing application for the product that is accepted for filing, or discontinues participation in FDA's BPD program.

Under section 744H(a)(1)(D) of the FD&C Act, if a sponsor has discontinued participation in FDA's BPD program and wants to re-engage with FDA on development of the product, the sponsor must pay a reactivation fee to resume participation in the program. The sponsor must pay the reactivation fee by the earlier of the following dates: No later than 5 calendar days after FDA

grants the sponsor's request for a BPD meeting for that product, or upon the date of submission by the sponsor of an IND describing an investigation that FDA determines is intended to support a biosimilar biological product application. The sponsor will be assessed an annual BPD fee beginning with the first fiscal year after payment of the reactivation fee.

BsUFA II also authorizes fees for certain biosimilar biological product applications and for each biosimilar biological product identified in an approved biosimilar biological product application (sections 744H(a)(2) and 744H(a)(3) of the FD&C Act). Under certain conditions, FDA may grant a small business a waiver from its first biosimilar biological product application fee (section 744H(d)(1) of the FD&C Act).

For FY 2018, the fee revenue amount is \$45,000,000, adjusted as needed to reflect an updated assessment of the workload for the process for the review of biosimilar biological product applications. FDA is adjusting the FY 2018 revenue amount to \$40,214,000 (rounded to the nearest thousand dollars) reflecting its updated assessment of the likely workload for the BsUFA program in FY 2018.

This document provides fee rates for FY 2018 for the initial and annual BPD fee (\$227,213), for the reactivation fee (\$454,426), for an application requiring clinical data (\$1,746,745), for an application not requiring clinical data (\$873,373), and for the program fee (\$304,162). These fees apply to the period from October 1, 2017, through September 30, 2018. For applications that are submitted for this period, this FY 2018 fee schedule must be used.

II. Fee Revenue Amount for FY 2018

The fee revenue amount for FY 2018 is \$45,000,000 adjusted for updated workload estimates (see sections 744H(b)(1) and 744H(c)(4) of the FD&C Act).

A. Statutory Fee Revenue Adjustments for Inflation

BsUFA II specifies that the annual fee revenue amount is to be further adjusted for inflation increases for FY 2019 through FY 2022 using two separate adjustments—one for personnel

compensation and benefits (PC&B) and one for non-PC&B costs (see section 744H(c)(1) of the FD&C Act). Because the adjustment for inflation does not take effect until FY 2019, FDA will not adjust the FY 2018 fee revenue amount for inflation.

B. FY 2018 Statutory Fee Revenue Adjustment for Workload

BsUFA II specifies that for FY 2018, the fee revenue amount includes an adjustment to reflect an updated assessment of the workload for the process for the review of biosimilar biological product applications (see section 744H(c)(4) of the FD&C Act).

In considering the appropriate FY 2018 fee revenue adjustment, FDA considered a range of factors including its best estimated level of submissions and activities (including forecasts of new BPDs, new 351(k)s, resubmitted 351(k)s, advisory committee meetings, interchangeability supplements, industry meetings, inspection activity, science and research activities, policy work, and other activities). Considering the totality of work forecasted for FY 2018 (and recognizing the inherent uncertainty of any forecast), FDA has determined that the appropriate adjusted level of the FY 2018 BsUFA fee revenue amount to be \$40,214,000 (rounded to the nearest thousand dollars). FDA will use this amount as the target revenue amount for FY 2018.

III. Fee Amounts for FY 2018

Under section 744H(b)(3)(A) of the FD&C Act, FDA must determine the percentage of the total revenue amount for a fiscal year to be derived from: (1) Initial and annual BPD fees and reactivation fees, (2) biosimilar biological product application fees, and (3) biosimilar biological product program fees. In establishing the fee amounts for the first year of BsUFA II, FDA considered how best to balance the fee allocation to provide stable funding and reasonable fee amounts, and utilized benchmarks as described below. In future years, FDA will consider the most appropriate means of allocating the fee amounts to collect the adjusted target revenue amount, subject to the relevant statutory provisions.

A. Application Fees

In establishing the biosimilar biological product application fee amount for FY 2018, FDA estimated the total number of fee-paying full applications equivalents (FAEs) it expects to receive in FY 2018. A full original 351(k) submission requiring clinical data counts as one FAE. An original 351(k) application not requiring

clinical data counts as one-half of an FAE. An application that is withdrawn before filing, or refused for filing, counts as one-fourth of an FAE if the applicant initially paid a full application fee. An application that is withdrawn, or refused for filing, counts as one-eighth of an FAE if the applicant initially paid one-half of the full application fee.

FDA considered the likelihood of submissions based on various indicators including a survey of sponsors on their intention to submit a 351(k) application. Based on the available information, FDA estimates it may receive 13 351(k) applications in FY 2018.

FDA has determined that the amount of the biosimilar biological product application fee for FY 2018 is \$1,746,745, which is estimated to provide a total of \$22,707,685, representing 56 percent (rounded to the nearest one) of the FY 2018 target revenue amount.

B. Biosimilar Biological Product Program Fee

BsUFA II renamed the product fee as the biosimilar biological product program fee (“program fee”); in addition, BsUFA II introduced a limitation that a person who is named as an applicant in a 351(k) application shall not be assessed more than five program fees for a fiscal year for biosimilar biological products identified in each 351(k) application (see FD&C Act section 744H(a)(3)(D)). The program fee was also modified so that applicants are assessed a program fee only for biosimilar biological products identified in a biosimilar biological product application approved as of October 1 of such fiscal year.

FDA estimates up to nine program fees will be invoiced in FY 2018, including currently approved products and products with the potential to be approved in pending applications with goal dates in FY 2017. For products invoiced in the FY 2018 regular billing cycle, FDA anticipates that zero program fees will be refunded. This prediction is based on observations dating to 2015, when the first biosimilar product was approved.

FDA has determined that the amount of the biosimilar biological product program fee for FY 2018 is \$304,162, which is estimated to provide a total of \$2,737,458, representing 7 percent (rounded to the nearest one) of the FY 2018 target revenue amount.

C. Initial and Annual BPD Fees, Reactivation Fees

To estimate the number of participants in the BPD program in FY 2018, FDA must consider the number of

new participants in the BPD program (initial BPD), the number of current participants (annual BPD), and the number of participants who will re-enter the BPD program (reactivation). FDA uses internal data, a survey of BPD sponsors, market sales data on reference products, and expected reference product expiration dates to estimate the total number of participants in the BPD program. FDA estimates 10 participants entering the BPD program, zero reactivations, and 55 participants to be invoiced for the annual BPD fee for a total of 65 participants in the BPD program in FY 2018.

The remainder of the target revenue of \$14,768,857, or 37 percent (rounded to the nearest one), is to be collected from the BPD fees. Dividing this amount by the estimated 65 BPD fees to be paid equals a BPD fee amount of \$227,213. The reactivation fee is set at twice the initial/annual BPD amount at \$454,426. FDA estimates zero reactivation fees will be paid, as none have yet been paid in the history of the BsUFA program.

IV. Fee Schedule for FY 2018

The fee rates for FY 2018 are provided in table 1.

TABLE 1—FEE SCHEDULE FOR FY 2018

Fee category	Fee rates for FY 2018 (\$)
Initial BPD	227,213
Annual BPD	227,213
Reactivation	454,426
Applications:	
Requiring clinical data	1,746,745
Not requiring clinical data	873,373
Program	304,162

V. Fee Payment Options and Procedures

A. Initial BPD, Reactivation, and Application Fees

The fees established in the new fee schedule apply to FY 2018, *i.e.*, the period from October 1, 2017, through September 30, 2018. The initial BPD fee for a product is due when the sponsor submits an IND that FDA determines is intended to support a biosimilar biological product application for the product or within 5 calendar days after FDA grants the first BPD meeting for the product, whichever occurs first. Sponsors who have discontinued participation in the BPD program must pay the reactivation fee by the earlier of the following dates: No later than 5 calendar days after FDA grants the sponsor’s request for a BPD meeting for that product, or upon the date of

submission by the sponsor of an IND describing an investigation that FDA determines is intended to support a biosimilar biological product application.

The application fee for a biosimilar biological product is due upon submission of the application (see section 744H(a)(2)(C) of the FD&C Act).

To make a payment of the initial BPD, reactivation, or application fee, complete the Biosimilar User Fee Cover Sheet, available on FDA's Web site (<http://www.fda.gov/bsufa>) and generate a user fee identification (ID) number. Payment must be made in U.S. currency by electronic check, check, bank draft, U.S. postal money order, or wire transfer. The preferred payment method is online using electronic check (Automated Clearing House (ACH) also known as eCheck) or credit card (Discover, VISA, MasterCard, American Express). Secure electronic payments can be submitted using the User Fees Payment Portal at <https://userfees.fda.gov/pay> (Note: Only full payments are accepted. No partial payments can be made online). Once you search for your invoice, click "Pay Now" to be redirected to Pay.gov. Electronic payment options are based on the balance due. Payment by credit card is available for balances that are less than \$25,000. If the balance exceeds this amount, only the ACH option is available. Payments must be made using U.S. bank accounts as well as U.S. credit cards.

FDA has partnered with the U.S. Department of the Treasury to use <http://www.pay.gov>, a web-based payment application, for online electronic payment. The Pay.gov feature is available on FDA's Web site after completing the Biosimilar User Fee Cover Sheet and generating the user fee ID number.

Please include the user fee ID number on your check, bank draft, or postal money order, and make it payable to the Food and Drug Administration. Your payment can be mailed to: Food and Drug Administration, P.O. Box 979108, St. Louis, MO 63197-9000. To send a check by a courier such as Federal Express or United Parcel Service, the courier must deliver the check and printed copy of the cover sheet to: U.S. Bank, ATTN: Government Lockbox 979108, 1005 Convention Plaza, St. Louis, MO 63101. (Note: This U.S. Bank address is for courier delivery only. Contact U.S. Bank at 314-418-4013 if you have any questions concerning courier delivery.) Please make sure that the FDA post office box number (P.O. Box 979108) is written on the check, bank draft, or postal money order.

If paying by wire transfer, please reference your unique user fee ID number when completing the transfer. The originating financial institution may charge a wire transfer fee. Please ask your financial institution about the fee and include it with your payment to ensure that your fee is fully paid. The account information for wire transfers is as follows: U.S. Department of Treasury, TREAS NYC, 33 Liberty St., New York, NY 10045, Acct. No.: 75060099, Routing No.: 021030004, SWIFT: FRNYUS33, Beneficiary: FDA, 8455 Colesville Rd., 14th Floor, Silver Spring, MD 20993-0002. If needed, FDA's tax identification number is 53-0196965.

B. Annual BPD and Program Fees

FDA will issue invoices for annual BPD and program fees for FY 2018 under the new fee schedule in September 2017. Payment instructions will be included in the invoices, including payment due dates. If sponsors join the BPD program after the annual BPD invoices have been issued in September 2017, FDA will issue invoices in December 2017 to firms subject to fees for FY 2018 that qualify for the annual BPD fee after the September 2017 billing. FDA will issue invoices in December 2017 for any annual program fees for FY 2018 that qualify for fee assessments and were not issued in September 2017.

Dated: September 8, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-19493 Filed 9-13-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2010-N-0594]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Focus Groups as Used by the Food and Drug Administration (All Food and Drug Administration-Regulated Products)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 16, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202-395-7285, or emailed to aira_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910-0497. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance. Focus Groups as Used by the Food and Drug Administration (All FDA-Regulated Products), OMB Control Number 0910-0497.

FDA conducts voluntary focus group interviews on a variety of topics involving FDA-regulated products, including drugs, biologics, devices, food, tobacco, and veterinary medicine.

Focus groups provide an important role in gathering information because they allow for a more in-depth understanding of patients' and consumers' attitudes, beliefs, motivations, and feelings than do quantitative studies. Focus groups serve the narrowly defined need for direct and informal opinion on a specific topic and as a qualitative research tool have three major purposes:

- To obtain patient and consumer information that is useful for developing variables and measures for quantitative studies,

- To better understand patients' and consumers' attitudes and emotions in response to topics and concepts, and
- To further explore findings obtained from quantitative studies.

FDA will use focus group findings to test and refine their ideas, but will generally conduct further research before making important decisions such as adopting new policies and allocating or redirecting significant resources to support these policies.

In the **Federal Register** of April 21, 2017 (82 FR 18763), FDA published a 60-day notice requesting public comment on the proposed collection of

information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Focus Group Interviews	8,800	1	8,800	1.75	15,400

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 8, 2017.
Leslie Kux,
Associate Commissioner for Policy.
 [FR Doc. 2017-19492 Filed 9-13-17; 8:45 am]
BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-N-0007]

Prescription Drug User Fee Rates for Fiscal Year 2018

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the rates for prescription drug user fees for fiscal year (FY) 2018. The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Prescription Drug User Fee Amendments of 2017 (PDUFA VI), authorizes FDA to collect application fees for certain applications for the review of human drug and biological products, and prescription drug program fees for certain approved products. This notice establishes the fee rates for FY 2018.

FOR FURTHER INFORMATION CONTACT: Robert J. Marcarelli, Office of Financial Management, Food and Drug Administration, 8455 Colesville Rd., COLE-14202F, Silver Spring, MD 20993-0002, 301-796-7223.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 735 and 736 of the FD&C Act (21 U.S.C. 379g and 379h, respectively)

establish two different kinds of user fees. Fees are assessed on the following: (1) Application fees are assessed on certain types of applications for the review of human drug and biological products; and (2) prescription drug program fees are assessed on certain approved products (section 736(a) of the FD&C Act). When specific conditions are met, FDA may waive or reduce fees (section 736(d) of the FD&C Act).

For FY 2018 through FY 2022, the base revenue amounts for the total revenues from all PDUFA fees are established by PDUFA VI. The base revenue amount for FY 2018 is \$878,590,000. The FY 2018 base revenue amount is to be adjusted for inflation and for the resource capacity needs for the process for the review of human drug applications (the capacity planning adjustment). An additional dollar amount specified in the statute (see section 736(b)(1)(F) of the FD&C Act) is then added to provide for additional full-time equivalent (FTE) positions to support PDUFA VI initiatives. The FY 2018 revenue amount may be adjusted further, if necessary, to provide for sufficient operating reserves of carryover user fees. Finally, the amount is adjusted to provide for additional direct costs to fund PDUFA VI initiatives. Fee amounts are to be established each year so that revenues from application fees provide 20 percent of the total revenue, and prescription drug program fees provide 80 percent of the total revenue.

This document provides fee rates for FY 2018 for an application requiring clinical data (\$2,421,495), for an application not requiring clinical data (\$1,210,748), and for the prescription

drug program fee (\$304,162). These fees are effective on October 1, 2017, and will remain in effect through September 30, 2018. For applications that are submitted on or after October 1, 2017, the new fee schedule must be used.

II. Fee Revenue Amount for FY 2018

The base revenue amount for FY 2018 is \$878,590,000 prior to adjustments for inflation, capacity planning, additional FTE, operating reserve, and additional direct costs (see section 736(b)(1) of the FD&C Act).

A. FY 2018 Statutory Fee Revenue Adjustments for Inflation

PDUFA VI specifies that the \$878,590,000 is to be adjusted for inflation increases for FY 2018 using two separate adjustments—one for personnel compensation and benefits (PC&B) and one for non-PC&B costs (see section 736(c)(1) of the FD&C Act).

The component of the inflation adjustment for payroll costs shall be one plus the average annual percent change in the cost of all PC&B paid per FTE positions at FDA for the first three of the preceding four FYs, multiplied by the proportion of PC&B costs to total FDA costs of the process for the review of human drug applications for the first three of the preceding four FYs (see section 736(c)(1)(A) and (c)(1)(B) of the FD&C Act).

Table 1 summarizes the actual cost and FTE data for the specified FYs and provides the percent changes from the previous FYs and the average percent changes over the first three of the four FYs preceding FY 2018. The 3-year average is 2.2354 percent.

TABLE 1—FDA PERSONNEL COMPENSATION AND BENEFITS (PC&B) EACH YEAR AND PERCENT CHANGES

Fiscal year	2014	2015	2016	3-year average
Total PC&B	\$2,054,937,000	\$2,232,304,000	\$2,414,728,159	
Total FTE	14,555	15,484	16,381	
PC&B per FTE	\$141,184	\$144,168	\$147,408	
Percent Change From Previous Year	2.3451	2.1136	2.2474	2.2354

The statute specifies that this 2.2354 percent should be multiplied by the proportion of PC&B costs to the total

FDA costs of the process for the review of human drug applications. Table 2 shows the PC&B and the total

obligations for the process for the review of human drug applications for three FYs.

TABLE 2—PC&B AS A PERCENT OF FEE REVENUES SPENT ON THE PROCESS FOR THE REVIEW OF HUMAN DRUG APPLICATIONS

Fiscal year	2014	2015	2016	3-year average
Total PC&B	\$585,260,720	\$615,483,892	\$652,508,273	
Total Costs	\$1,077,263,695	\$1,127,664,528	\$1,157,817,695	
PC&B Percent	54.3285	54.5804	56.3567	55.0885

The payroll adjustment is 2.2354 percent from table 1 multiplied by 55.0885 percent (or 1.2314 percent).

The statute specifies that the portion of the inflation adjustment for non-payroll costs is the average annual percent change that occurred in the Consumer Price Index (CPI) for urban consumers (Washington-Baltimore, DC-MD-VA-WV; not seasonally adjusted; all

items; annual index) for the first 3 years of the preceding 4 years of available data multiplied by the proportion of all costs other than PC&B costs to total costs of the process for the review of human drug applications for the first three years of the preceding four FYs (see section 736(c)(1)(B) of the FD&C Act). Table 3 provides the summary data for the percent changes in the specified

CPI for the Washington-Baltimore area. The data are published by the Bureau of Labor Statistics and can be found on its Web site at: <http://data.bls.gov/cgi-bin/surveymost?cu>. The data can be viewed by checking the box marked "Washington-Baltimore All Items, November 1996=100—CUURA311SA0" and then selecting "Retrieve Data".

TABLE 3—ANNUAL AND THREE-YEAR AVERAGE PERCENT CHANGE IN CPI FOR WASHINGTON-BALTIMORE AREA

Fiscal year	2014	2015	2016	3-year average
Annual CPI	154.847	155.353	157.180	
Annual Percent Change	1.5390	0.3268	1.1760	1.0139

The statute specifies that this 1.0139 percent should be multiplied by the proportion of all costs other than PC&B to total costs of the process for the review of human drug applications obligated. Since 55.0885 percent was obligated for PC&B (as shown in table 2), 44.9115 percent is the portion of costs other than PC&B (100 percent minus 55.0885 percent equals 44.9115 percent). The non-payroll adjustment is 1.0139 percent times 44.9115 percent, or 0.4554 percent.

Next, we add the payroll adjustment (1.2314 percent) to the non-payroll adjustment (0.4554 percent), for a total inflation adjustment of 1.6868 percent (rounded) for FY 2018.

We then multiply the base revenue amount for FY 2018 (\$878,590,000) by 1.016868, yielding an inflation-adjusted amount of \$893,410,056.

B. FY 2018 Statutory Fee Revenue Adjustments for Capacity Planning

The statute specifies that after \$878,590,000 has been adjusted for inflation, the inflation-adjusted amount shall be further adjusted to reflect changes in the resource capacity needs for the process of human drug

application reviews (see section 736(c)(2) of the FD&C Act). The statute prescribes an interim capacity planning adjustment be utilized until a new methodology can be developed through a process involving an independent evaluation as well as obtaining public comment. The interim capacity planning adjustment is applied to FY 2018 fee setting.

To determine the FY 2018 capacity planning adjustment, FDA calculated the average number of each of the five elements specified in the capacity planning adjustment provision: (1) Human drug applications (new drug applications (NDAs)/biologics license applications (BLAs)); (2) active commercial investigational new drug applications (INDs) (IND applications that have at least one submission during the previous 12 months); (3) efficacy supplements; (4) manufacturing supplements; and (5) formal meetings, type A, B, B(EoP), C, and written responses only (WRO) issued in lieu of such formal meetings, over the 3-year period that ended on June 30, 2016, and the average number of each of these elements over the most recent 3-year period that ended June 30, 2017.

The calculations are summarized in table 4. The 3-year averages for each element are provided in column 1 ("3-Year Average Ending 2016") and column 2 ("3-Year Average Ending 2017"). Column 3 reflects the percent change from column 1 to column 2. Column 4 shows the weighting factor for each element. The weighting factor methodology has been updated for PDUFA VI. The previous methodology relied on the relative value of the standard costs for the elements included in the adjuster, and summed to 100 percent. The weighting factor now is the time invested in activities related to the element expressed as a percentage of total time invested in PDUFA activities, and will adjust only the costs attributed to the elements included in the model (hence the weighting factor does not now sum to 100 percent). Column 5 is the weighted percent change in each element. This is calculated by multiplying the weighting factor in each line in column 4 by the percent change in column 3. The values in column 5 are summed, reflecting an adjustment of 2.5090 percent (rounded).

TABLE 4—CAPACITY PLANNING ADJUSTER (INTERIM METHODOLOGY) CALCULATION FOR FY 2018

Element	Column 1	Column 2	Column 3	Column 4	Column 5
	3-year average ending 2016	3-year average ending 2017	Percent change (column 1 to column 2)	Weighting factor (percent)	Weighted percent change
NDA/BLAs	147.3333	153.0000	3.8462	18.0915	0.6958
Active Commercial INDs	7,598.0000	7,846.6667	3.2728	23.3890	0.7655
Efficacy Supplements	196.3333	212.3333	8.1494	4.1848	0.3410
Manufacturing Supplements	2,368.0000	2,482.6667	4.8423	4.3690	0.2116
Meetings Scheduled and WROs	2,720.6667	2,940.0000	8.0617	6.1417	0.4951
FY 2018 Capacity Planning Adjuster					2.5090

Table 5 shows the calculation of the inflation and capacity planning adjusted amount for FY 2018. The FY 2018 base revenue amount, \$878,590,000, shown on line 1 is multiplied by the inflation

adjustment factor of 1.016868, resulting in the inflation-adjusted amount of \$893,410,056 shown on line 3. That amount is then multiplied by one plus the capacity planning adjustment of

2.5090 percent, resulting in the inflation and capacity planning adjusted amount of \$915,825,714 shown on line 5.

TABLE 5—PDUFA INFLATION AND CAPACITY PLANNING ADJUSTED AMOUNT FOR FY 2018, SUMMARY CALCULATION

FY 2018 Revenue Amount	\$878,590,000	Line 1
Inflation Adjustment Factor for FY 2018 (1 plus 1.6868 percent)	1.016868	Line 2
Inflation Adjusted Amount	\$893,410,056	Line 3
Capacity Planning Adjustment Factor for FY 2018 (1 plus 2.5090 percent)	1.025090	Line 4
Inflation and Capacity Planning Adjusted Amount	\$915,825,714	Line 5

The capacity planning adjustment adds \$22,415,658 to the fee revenue amount for FY 2018. This increase is driven by the fact that the counts of elements for 2017 (year ending June 30) are at or near the highest levels since the first incorporation of the workload adjuster in 2003. The NDA/BLA count in 2017 is equal to the highest annual number recorded since the advent of the workload adjuster methodology in 2003. Active commercial INDs, efficacy supplements, and meetings/WROs are higher in 2017 than in any previous year recorded in the workload adjuster (*note*: Meetings/WROs are only counted back to 2014 while the other elements are counted back to 2003). The manufacturing supplement count is approximately 2 percent below the highest number recorded in the history of the workload adjuster. Comparing 2017 to 2014, the first year included in the average in column 1 in the adjustment, NDA/BLAs are 12 percent higher, active commercial INDs are 10 percent higher, efficacy supplements are 25 percent higher, manufacturing supplements are 15 percent higher, and meetings scheduled and WROs are 27 percent higher. This significant and across the board increase in submission activity is the driver of the \$22,415,658 upward adjustment to the fee revenue amount.

Per the commitments made in PDUFA VI, this increase in the revenue amount

will be allocated and used by organizational review components engaged in direct review work to enhance resources and expand staff capacity and capability (see II.A.4 on p.37 of the PDUFA VI commitment letter).¹

C. FY 2018 Statutory Fee Revenue Adjustments for Additional Dollar Amounts

PDUFA VI provides an additional dollar amount for each of the next five fiscal years for additional FTE to support PDUFA VI enhancements outlined in the PDUFA VI commitment letter. The amount for FY 2018 is \$20,077,793 (see section 736(b)(1)(F) of the FD&C Act). Adding this amount to the inflation and capacity planning adjusted revenue amount, \$915,825,714, equals \$935,904,000 (rounded to the nearest thousand dollars).

D. FY 2018 Statutory Fee Revenue Adjustments for Operating Reserve

PDUFA VI provides for an operating reserve adjustment to allow FDA to increase the fee revenue and fees for any given fiscal year during PDUFA VI to maintain up to 14 weeks of operating reserve of carryover user fees. If the carryover balance exceeds 14 weeks of

operating reserves, FDA is required to decrease fees to provide for not more than 14 weeks of operating reserves of carryover user fees.

To determine the 14-week operating reserve amount, the FY 2018 annual base revenue adjusted for inflation and capacity planning, \$915,825,714, is divided by 52, and then multiplied by 14. The 14-week operating reserve amount for FY 2018 is \$246,568,461.

To determine the end of year operating reserve amount, the Agency must assess actual operating reserve at the end of the third quarter of FY 2017, and forecast collections and obligations in the fourth quarter of FY 2017. The estimated end of year FY 2017 operating reserve is \$279,856,044.

Because the estimated end of year FY 2017 PDUFA operating reserve exceeds the 14-week operating reserve for FY 2018, FDA will reduce the FY 2018 PDUFA fee revenue of \$935,903,507 by \$33,287,582, resulting in an adjusted fee revenue of \$902,615,925.

E. FY 2018 Statutory Fee Revenue Adjustments for Additional Direct Cost

PDUFA VI specifies that \$8,730,000 be added in addition to the operating reserve adjustment to account for additional direct costs in FY 2018. This additional direct cost adjustment will be adjusted for inflation each year beginning in FY 2019.

¹The PDUFA VI commitment letter can be viewed at <https://www.fda.gov/downloads/forindustry/userfees/prescriptiondruguserfee/ucm511438.pdf>.

The final FY 2018 PDUFA fee revenue is \$911,346,000 (rounded to the nearest thousand dollars).

III. Application Fee Calculations

A. Application Fee Revenues and Application Fees

Application fees will be set to generate 20 percent of the total revenue amount, or \$182,269,200 in FY 2018.

B. Estimate of the Number of Fee-Paying Applications and Setting the Application Fees

FDA will estimate the total number of fee-paying full application equivalents

(FAEs) it expects to receive during the next FY by averaging the number of fee-paying FAEs received in the three most recently completed FYs. Prior year FAE totals are updated annually to reflect refunds and waivers processed after the close of the FY.

In estimating the number of fee-paying FAEs, a full application requiring clinical data counts as one FAE. An application not requiring clinical data counts as one-half of an FAE. An application that is withdrawn before filing, or refused for filing, counts as one-fourth of an FAE if the applicant initially paid a full application fee, or

one-eighth of an FAE if the applicant initially paid one-half of the full application fee amount. Prior to PDUFA VI, the FAE amount also included supplements; supplements have been removed from the FAE calculation as the supplement fee has been discontinued in PDUFA VI.

As table 6 shows, the average number of fee-paying FAEs received annually in the most recent 3-year period is 75.271347 FAEs. FDA will set fees for FY 2018 based on this estimate as the number of full application equivalents that will pay fees.

TABLE 6—FEE-PAYING FAEs

FY	2014	2015	2016	3-year average
Fee-Paying FAEs	73.375000	81.955603	70.483437	75.271347

Note: Prior year FAE totals are updated annually to reflect refunds and waivers processed after the close of the FY.

The FY 2018 application fee is estimated by dividing the average number of full applications that paid fees over the latest 3 years, 75.271347, into the fee revenue amount to be derived from application fees in FY 2018, \$182,269,200. The result is a fee of \$2,421,495 per full application requiring clinical data, and \$1,210,748 per application not requiring clinical data.

IV. Fee Calculations for Prescription Drug Program Fees

PDUFA VI renamed the product fee the “prescription drug program fee”; in addition, PDUFA VI introduced a limitation that an applicant will not be assessed more than five program fees for a fiscal year for prescription drug products identified in a single approved NDA or BLA (see section 736(a)(2)(C)). The program fee was also modified so that applicants are assessed a program fee only for prescription drug products identified in a human drug application approved as of October 1 of such fiscal year.

FDA estimates 2,461 program fees will be invoiced in FY 2018 before factoring in waivers, refunds, and exemptions. FDA approximates that there will be 27 waivers and refunds granted. In addition, FDA approximates that another 37 program fees will be exempted in FY 2018 based on the orphan drug exemption in section 736(k) of the FD&C Act. FDA estimates 2,397 program fees in FY 2018, after allowing for an estimated 64 waivers and reductions, including the orphan drug exemptions. The FY 2018 prescription drug program fee rate is

calculated by dividing the adjusted total revenue from program fees (\$729,076,800) by the estimated 2,397 program fees, for a FY 2018 program fee of \$304,162.

V. Fee Schedule for FY 2018

The fee rates for FY 2018 are displayed in table 7:

TABLE 7—FEE SCHEDULE FOR FY 2018

Fee category	Fee rates for FY 2018
Application:	
Requiring clinical data	\$2,421,495
Not requiring clinical data	1,210,748
Program	304,162

VI. Fee Payment Options and Procedures

A. Application Fees

The appropriate application fee established in the new fee schedule must be paid for any application subject to fees under PDUFA that is received on or after October 1, 2017. Payment must be made in U.S. currency by electronic check, check, bank draft, wire transfer, or U.S. postal money order payable to the order of the Food and Drug Administration. The preferred payment method is online using electronic check (Automated Clearing House (ACH) also known as eCheck) or credit card (Discover, VISA, MasterCard, American Express). Secure electronic payments can be submitted using the User Fees Payment Portal at <https://userfees.fda.gov/pay> (Note: only full payments are accepted. No partial

payments can be made online). Once you search for your invoice, select “Pay Now” to be redirected to *Pay.gov*. Payment by credit card is available for balances that are less than \$25,000. If the balance exceeds this amount, only the ACH option is available. Payments must be made using U.S bank accounts as well as U.S. credit cards.

FDA has partnered with the U.S. Department of the Treasury to use *Pay.gov*, a web-based payment application, for online electronic payment. The *Pay.gov* feature is available on the FDA Web site after the user fee ID number is generated.

Please include the user fee identification (ID) number on your check, bank draft, or postal money order. Mail your payment to: Food and Drug Administration, P.O. Box 979107, St. Louis, MO 63197–9000. If a check, bank draft, or money order is to be sent by a courier that requests a street address, the courier should deliver your payment to: U.S. Bank, Attention: Government Lockbox 979107, 1005 Convention Plaza, St. Louis, MO 63101. (Note: This U.S. Bank address is for courier delivery only. If you have any questions concerning courier delivery contact the U.S. Bank at 314–418–4013. This telephone number is only for questions about courier delivery). Please make sure that the FDA post office box number (P.O. Box 979107) is written on the check, bank draft, or postal money order.

If paying by wire transfer, please reference your unique user fee ID number when completing your transfer. The originating financial institution may charge a wire transfer fee. Please

ask your financial institution about the fee and add it to your payment to ensure that your fee is fully paid. The account information for wire transfers is as follows: U.S. Department of the Treasury, TREAS NYC, 33 Liberty St., New York, NY 10045, Acct. No.: 75060099, Routing No.: 021030004, SWIFT: FRNYUS33, Beneficiary: FDA, 8455 Colesville Rd., 14th Floor, Silver Spring, MD 20993-0002. If needed, FDA's tax identification number is 53-0196965.

B. Prescription Drug Program Fees

FDA plans to issue invoices and payment instructions for FY 2018 program fees under the new fee schedule in September 2017. Payment will be due on October 1, 2017. FDA plans to issue invoices in December 2017 for FY 2018 program fees that qualify for fee assessments after the initial 2017 billing.

Dated: September 8, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-19494 Filed 9-13-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Waiver of Compliance With Navigation Laws; Hurricanes Harvey and Irma

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

ACTION: Notice.

Hurricane Harvey striking the U.S. Gulf Coast has resulted in severe disruptions in both the midstream and downstream sectors of the oil supply system. Some refineries and pipeline networks are shut-in or running at reduced rates. In addition, conditions exist for a potential imminent shortage of energy supply in areas predicted to be affected by Hurricane Irma. In light of the impact on the affected region's energy needs, the Department of Energy (DOE) has recommended that the Department of Homeland Security waive the requirements of the Jones Act in the interest of national defense to facilitate the transportation of the necessary volume of petroleum products for a 7-day period. Furthermore, the Department of Defense (DoD) has requested a 7-day waiver of the Jones Act in the interest of national defense, commencing immediately.

The Jones Act, 46 United States Code (U.S.C.) 55102, states "a vessel may not provide any part of the transportation of

merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port" unless the vessel was built in and documented under the laws of the United States and is wholly owned by persons who are citizens of the United States. Such a vessel, after obtaining a coastwise endorsement from the U.S. Coast Guard, is "coastwise-qualified." The coastwise laws generally apply to points in the territorial sea, which is defined as the belt, three nautical miles wide, seaward of the territorial sea baseline, and to points located in internal waters, landward of the territorial sea baseline.

The navigation laws, including the coastwise laws, can be waived under the authority provided by 46 U.S.C. 501. The statute provides in relevant part, "On request of the Secretary of Defense, the head of an agency responsible for the administration of the navigation or vessel-inspection laws shall waive compliance with those laws to the extent the Secretary considers necessary in the interest of national defense." 46 U.S.C. 501(a).

For the reasons stated above, and in light of the request from the Department of Defense and the concurrence of the Department of Energy, I am exercising my authority to waive the Jones Act for a 7-day period, commencing immediately, to facilitate movement of refined petroleum products, including gasoline, diesel, and jet fuel—to be shipped from New York, Pennsylvania, Texas, and Louisiana to South Carolina, Georgia, Florida, and Puerto Rico. This waiver applies to covered merchandise loaded on board a vessel within the 7 day period of the waiver.

Executed this 8th day of September, 2017.

Elaine C. Duke,

Acting Secretary of Homeland Security.

[FR Doc. 2017-19523 Filed 9-13-17; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0131]

Agency Information Collection Activities; Revision of a Currently Approved Collection: USCIS Electronic Payment Processing

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until November 13, 2017.

ADDRESSES: All submissions received must include the OMB Control Number 1615-0131 in the body of the letter, the agency name and Docket ID USCIS-2014-0005. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov> under e-Docket ID number USCIS-2014-0005;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529-2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529-2140, telephone number 202-272-8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at 800-375-5283 (TTY 800-767-1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2014-0005 in the search box. Regardless of the method used for submitting comments or material, all

submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* USCIS Electronic Payment Processing.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The Immigration and Nationality Act of 1952 (INA), as amended, provides for the collection of fees at a level that will ensure recovery of the full costs of providing adjudication and naturalization services, including services provided without charge to asylum applicants and certain other immigrant applicants

(see INA section 286(m), 8 U.S.C. 1356(m)) and USCIS will accept certain fee payments electronically.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection is 3,284,418 and the estimated hour burden per response is .12 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 394,131 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is captured as a part of the form which requires a payment to be processed.

Dated: September 8, 2017.

Samantha Deshommes,

Chief, Regulatory Coordination Division,
Office of Policy and Strategy, U.S. Citizenship
and Immigration Services, Department of
Homeland Security.

[FR Doc. 2017-19495 Filed 9-13-17; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R6-ES-2017-N066;
FXES1113060000-178-FF06E00000]

U.S. Endangered Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits to conduct activities intended to enhance the propagation or survival of endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits certain activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA also requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, we must receive your written comments by October 16, 2017.

ADDRESSES: *Requesting Copies of Applications or Public Comments:* Copies of applications or public comments concerning any of the applications in this notice may be

obtained by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552): Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486-DFC, Denver, CO 80225.

Submitting Comments: You may submit comments by one of the following methods. Please specify applicant name(s) and application number(s) to which your comments pertain (e.g., TE-XXXXXX).

- *Email:* permitsR6ES@fws.gov. Please refer to the respective permit number (e.g., Application No. TE-XXXXXX) in the subject line of your email message.

- *U.S. Mail:* Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486-DFC, Denver, CO 80225.

- *In-Person Drop-off, Viewing, or Pickup:* Call (719) 628-2670 to make an appointment during regular business hours at 134 Union Blvd., Suite 645, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT:

Kathy Konishi, Recovery Permits Coordinator, Ecological Services, (719) 628-2670 (phone); permitsR6ES@fws.gov (email).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), invite the public to comment on applications for permits to conduct activities intended to promote recovery of endangered species. With some exceptions, the ESA prohibits certain activities with endangered species unless a Federal permit allows such activity. The ESA also requires that we invite public comment before issuing these permits.

Background

The ESA prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found

at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies and the public to comment on the following applications.

Application number	Applicant	Species	Location	Activity	Type of take	Permit action
TE077684-1	Memphis Zoological Society, Memphis, TN.	Wyoming toad (<i>Anaxyrus baxteri</i>).	TN	Captive propagation, educational display.	Capture, handle, captive propagation, and release.	Renew
TE6556C-2	Bowen Collins and Associates, Draper, UT.	(<i>Spiranthes diluvialis</i>) Ute ladies'- tresses, Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	UT	Survey and monitor	Collect and handle Ute ladies'-tresses; playback calls and disturbance of Southwestern willow flycatcher.	Amend
TE26583C-0	Chicago Botanic Garden, Glencoe, IL.	(<i>Sclerocactus wrightiae</i>) Wright fishhook cactus.	UT	Survey, monitor, sample	Collection of tissue to investigate genetic diversity and gene flow.	New
TE054317-0	InterWest Wildlife and Ecological Services, Inc., Richmond, UT.	Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	UT, WY	Survey and monitor	Playback calls and disturbance.	New
TE121914-8	U.S. Geological Survey, Jamestown, ND.	Least tern (<i>Sternula antillarum athalassos</i>).	CO, NE, ND, SD, MT	Survey and monitor	Capture, handle, band ..	Amend
TE26580C-0	Milu Velardi, Denver, CO.	New Mexico meadow jumping mouse (<i>Zapus hudsonius luteus</i>), gray bat (<i>Myotis grisescens</i>), Indiana bat (<i>Myotis sodalis</i>), Virginia big-eared bat (<i>Corynorhinus (=plecotus) townsendii virginianus</i>).	CO, NM for the New Mexico meadow jumping mouse; AL, AR, AZ, CO, CT, DC, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, WV, WY for the bats.	Survey and monitor for all species; radio tag and band for bats.	Capture, handle, band, radio tag, and release for bats; capture, handle for measurements, release for New Mexico meadow jumping mouse.	New
TE09941B-2	Felsburg Holt and Ullevig, Inc., Lincoln, NE.	American burying beetle (<i>Nicrophorus americanus</i>), Indiana bat (<i>Myotis sodalis</i>).	NE, SD, KS, OK, TX, MO, AR for American burying beetle; IA, NE for the Indiana bat.	Survey and monitor	Capture, handle, mark of American burying beetle; capture, handle, band of Indiana bat.	Amend
TE32974C-0	Central Utah Water Conservancy District, Orem, UT.	June sucker (<i>Chasmistes liorus</i>).	UT	Carp removal in Utah Lake to restore vegetative refuge habitat for the June sucker.	Capture, immediate release.	New
TE67018A-1	National Park Service, Missouri River National Recreational River, Yankton, SD.	Least tern (<i>Sternula antillarum athalassos</i>).	NE	Survey and monitor	Capture, handle, band ..	Renew
TE210754-1	Lincoln Children's Zoo, Lincoln, NE.	Salt Creek tiger beetle (<i>Cicindela nevadica lincolniensis</i>).	NE	Captive propagation	Capture, handle, captive propagation, and release.	Renew
TE040510-1	ERO Resources, Denver, CO.	Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	CO	Survey and monitor	Playback calls and disturbance.	Renew

Public Availability of Comments

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. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review; however, we cannot guarantee that we will be able to do so.

Contents of Public Comments

Please make your comments as specific as possible. Please confine your

comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations.

Next Steps

If the Service decides to issue permits to any of the applicants listed in this

notice, we will publish a notice in the **Federal Register**.

Authority:

Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Michael Thabault,

Assistant Regional Director, Mountain-Prairie Region.

[FR Doc. 2017-19401 Filed 9-13-17; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR**National Park Service**[NPS-WASO-NRNL-24004;
PPWOCRADIO, PCU00RP14.R50000]**Comments Regarding Listing on the National Register of Historic Places of Statue of Liberty Enlightening the World, Liberty Island, New York Harbor****AGENCY:** National Park Service, Interior.**ACTION:** Notice.

SUMMARY: In accordance with the National Historic Preservation Act of 1966, the National Park Service is publishing New York (NY) and New Jersey (NJ) State Historic Preservation Officers' (SHPOs) comments to the National Park Service Federal Preservation Officer (FPO) as well as responses to SHPOs' comments by the Keeper of the National Register (Keeper) prior to including the property in the National Register (NR).

SUPPLEMENTARY INFORMATION: This notice includes comments on the NR Nomination entitled "Statue of Liberty Enlightening the World" received by the FPO from the NY SHPO and the NJ SHPO, and the responses by the Keeper to these comments.

NY SHPO: The NY SHPO reviewed the following nomination and responded to the FPO within 45 days of receipt of the nomination. The NY SHPO objected to the period of significance established for the Statue, the period of significance proposed end date of 1957 (instead of 1986) for the district as a whole, and the omission of an area of landscape architecture and architecture as areas significance for the period 1957–1986. The specific comments received by the FPO from the NY SHPO are as follows:

I am writing in response to your request for comments on the most recent revised draft for the Statue of Liberty Enlightening the World Historic District. Ruth Pierpont has retired and I am the new Deputy State Historic Preservation Officer for New York.

I have reviewed the file and our comments remain the same as they were for the two previous drafts. Unfortunately, the New York State Historic Preservation Office cannot support a period of significance that extends "in perpetuity" because we do not believe it is possible to evaluate the significance of events that have not yet occurred. Absent any theme, place, or time in which to place these unknown events, there is no possible context in which to evaluate their meaning. This opinion, which I support, is explained in more detail in Ruth Pierpont's letter of June 6, 2012.

We would also like to re-state our support of a period of significance for the landscape elements that extends to include the 1986 alterations for the statue's centennial. The

fact that you have judged changes related to its centennial as non-contributing after extolling the statue's unending significance is among the reasons that we feel a period of "in perpetuity" is unwise. At the very least, it will generate unnecessary confusion in the compliance process as each newly-proposed project then automatically becomes significant, regardless of its effect on the resource.

Keeper's Response to NY SHPO Comments: The Statue of Liberty (including its pedestal) is a *singular* (Keeper's emphasis), exceptionally significant, individually NR-eligible historic structure. The significance of the Statue to the nation is, and will always be, both transcendent and perpetual. It is not unprecedented for a property with transcendent significance to be listed in the NR with period of significance that is ongoing. The NR listing for National Mall Historic District in Washington, DC—under Criterion A—is another example. The Keeper notes that several properties located in the State of New York, including Our Lady of Mount Carmel Grotto, Richmond County, New York (listed in the NR in 2000), and Bohemian Hall and Park, in Queens County, New York (listed in the NR in 2001), also have ongoing periods of significance because of their recognition as NR-eligible Traditional Cultural Properties.

The nomination as written is for a historic district. The Keeper notes that it is a long-established, and common NR program practice for an individually eligible or individually listed historic structure located within a larger NR-listed historic district to have a different period of significance than the district as a whole. Based on all relevant documentation and comments received for the nomination, the Keeper finds that the proposed end date for the period of significance for the district as a whole—1957—is appropriate. The Keeper concurs with the assessment stated in section 7, page 28 of the nomination, which states: "Changes made to key elements of the Liberty Island Grounds in the mid-1980s and alterations over time to contributing buildings and structures preclude the District's eligibility in the areas of Landscape Architecture or Architecture." On balance, the Keeper also finds that the post-1957 changes in the landscape and buildings for the *district as a whole* (Keeper's emphasis), do not appear to satisfy the "exceptional importance" threshold embodied in NR Criterion Exception G for properties that have achieved significance within the past fifty years.

NJ SHPO: The NJ SHPO reviewed the nomination and responded to the FPO

within 45 days of receipt of the nomination. The NJ SHPO objected to the nomination document's failure to recognize the State of New Jersey's jurisdictional claim over a portion of Liberty Island and other related matters. The specific comments received by the FPO from the NJ SHPO are as follows:

NJ SHPO Comment 1 (Concerning Section 2a): The opening page of the Registration Form should indicate that the *two* states in which this district is situated are New York *and* New Jersey, and that the two counties are New York *and* Hudson.

Keeper's response to NJ SHPO Comment 1: The Keeper notes that the most important function of Section 2a. is to readily identify the location of the property in its most common format. In the present case, the Keeper has concluded, especially in light of the jurisdiction issues raised by the NJ SHPO, that the most appropriate way to achieve this purpose is to have Section 2a. of the Nomination Form read as follows for the items noted below:

Street & number: Liberty Island, New York Harbor

City or town:

State, County:

Vicinity: No

Not For Publication: No

NJ SHPO Comment 2 (Concerning Section 7, page 6): The narrative should explain that while the majority of Liberty Island is situated within the State of New York, including the ground upon which the Statue stands, the western portion of the island (approximately 3.4 acres) is ground within New Jersey borders. In 1834, a determination of the boundary between New York and New Jersey was the subject of a bi-state compact, subsequently approved by Congress. Congressional approval of this compact acknowledged New Jersey's ownership of the submerged lands west of the midline of the Hudson River. In 1857 Bedloes Island (today's Liberty Island) was carefully surveyed and mapped. It was found to be 9.9 acres in size to mean high water, 10.7 acres in size to mean low water. An additional 183,756 square feet of filled land, or approximately 4.22 acres was added to Liberty Island in stages between 1901 and 1952.

In light of the above, the statement that "the *entire* island is Federally owned" (Section 7, page 6) should be revised. New Jersey's position has historically been that the portion of the island that remains within New Jersey's sovereign jurisdiction is also *owned* by the State of New Jersey, as part of its ownership of riparian lands in New

Jersey. The State of New Jersey has a long history of selling portions of its riparian lands at fair market value, to appropriate users, in the form of "riparian grants." The National Park Service bought a riparian grant from New Jersey in 1904 to legitimize its expansion of Ellis Island, but even though New Jersey sought from the 1930s to the 1950s to reach agreement with the Federal government to convey title for the filled portions of Liberty Island, no agreement, and therefore no such transfer, was effected. No Federal purchase of the land has subsequently been completed. The Federal government has continued to use the property without obtaining a riparian grant. That situation has not changed. As a result, the State of New Jersey's ownership interest in the land artificially filled after 1834 was not extinguished and still remains in effect.

In addition, the further statement that "the land mass [of Liberty Island] is considered part of New York County, New York." (Section 7, page 6) should also be revised. Only the portion of Liberty Island that reflects the island as it existed in 1834 lies within New York County, New York. In our previous comments on the earlier draft, we provided a map that delineated the area the island's fill, showing that New Jersey's territory comprises approximately 3.4 acres of the island's 14.1 acres. (see attachment)

New Jersey disagrees with the wording of footnote #5 (Section 7, page 6), which has a tendentious effect. The National Park Service has every reasonable basis to conclude, as New Jersey holds, that Liberty Island is situated in both states, and does not need to claim in this footnote that it is not pronouncing upon an issue that Section 2 of the document clearly does.

Your letter cites the 1998 Supreme Court decision in *New Jersey v. New York*, decided in New Jersey's favor (a point not mentioned in footnote #5), in which it was held that the portion of Ellis Island composed of landfill emplaced subsequent to the Compact of 1834 has remained in the territory of New Jersey since the time of that compact. With respect to the neighboring Liberty Island, the factual circumstances are nearly identical and the same legal reasoning applies that formed the basis of the Ellis Island decision. As a result, the National Park Service should recognize New Jersey sovereignty over the western portion of the island.

Keeper's response to NJ SHPO Comment 2 (Concerning Section 7, page 6): The Keeper disagrees with the NJ SHPO's contention that, "The National

Park Service has every reasonable basis to conclude, as New Jersey holds, that Liberty Island is situated in both states . . ." The Keeper agrees with the NPS assertion that boundary issues between states are matters of original jurisdiction with the U.S. Supreme Court, and that neither the Keeper nor the National Park Service are fitted by expertise or authority to pronounce upon them. Since the issue regarding jurisdiction that was raised by the NJ SHPO cannot be resolved within the context of this nomination, the Keeper has determined that the most appropriate course of action is to ensure that, as approved by the Keeper, the paragraph under "Setting" on page 7–6 reads:

Liberty Island is located within New York Harbor, one of the world's busiest shipping ports. It is accessed by ferries that run regularly from landings at Liberty State Park in Jersey City, New Jersey, and Battery Park at the southern tip of Manhattan, New York City. The island is manifestly flat, with an average elevation of about 15 feet (ft) above sea level. The landform is approximately a quarter-mile long and about .15-mile wide at its widest point. Two significant filling events, conducted on the west side of the island by the US Army during the First World War and on the northwestern end of the island by the National Park Service in the early 1950s, accreted the island to its current 14.1-acre form. Liberty Island is surrounded by New Jersey state waters. The Statue in its entirety was constructed and remains within the territorial jurisdiction of the State of New York. The entire island is administered by the National Park Service. The Statue of Liberty is located on the southern portion of Liberty Island and is immediately surrounded on the east, west, and south sides by grass lawns. Visitors arrive at the island's West Pier after a ferry trip from Manhattan or Jersey City and usually walk to the Statue on the island's primary circulation system, a wide paved system of malls and plazas that conveys visitors to the main entrance to the Statue. The malls and plazas are lined with linden trees and yew hedges that give the setting a park-like feel. A secondary circulation system consisting of interior paths and a perimeter promenade offers other views of the Statue and New York Harbor from a variety of vantage points. Operational facilities such as maintenance buildings and staff housing are located primarily in the northwest corner of the island and are screened from public view in most directions. (**NOTE: footnote #5 referenced in the NJ SHPOs comments regarding the above paragraph has been corrected to read as footnote #6 in the final nomination document.)

Authority: The National Historic Preservation Act of 1966, 54 U.S.C. 302104 (c)(5)–(6) of; 60.13 of 36 CFR part 60.

Dated: August 14, 2017.

J. Paul Loether,

Chief, NR of Historic Places/National Historic Landmarks Program and Keeper, NR of Historic Places.

[FR Doc. 2017–19571 Filed 9–13–17; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1055]

Certain Mirrors With Internal Illumination and Components Thereof;

Supplemental Notice of Commission Determination Not To Review an Initial Determination Finding the Sole Remaining Respondent in Default; Request for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 10) finding the sole remaining respondent in default. The Commission requests written submissions, under the schedule set forth below, on remedy, public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 8, 2017, based on a complaint filed by Electric Mirror, LLC of Everett, Washington ("Electric Mirror") and Kelvin 42 LLC of Pensacola, Florida

(“Kelvin”). 82 FR 21405 (May 8, 2017). The complaint, as amended, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mirrors with internal illumination and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,853,414 (“the ‘414 patent”) and 7,559,668 (“the ‘668 patent”). The notice of investigation named as respondents Lumidesign Inc. of Ontario, Canada (“Lumidesign”); Majestic Mirrors & Frame, LLC of Miami, Florida (“Majestic”); and Project Light, LLC (d/b/a Project Light, Inc., Prospetto Light, LLC, and/or Prospetto Lighting, LLC) of Stow, Ohio (“Project Light”). The Office of Unfair Import Investigations was not named as a party to the investigation.

The Commission previously terminated the investigation in part based on withdrawal of allegations concerning complainant Kelvin, respondent Majestic, and the ‘668 patent. Order No. 6 (June 19, 2017), *not reviewed* Notice (July 10, 2017). The Commission also previously terminated the investigation with respect to respondent Lumidesign based on a settlement agreement. Order No. 8 (July 6, 2017), *not reviewed* Notice (July 27, 2017).

The Commission successfully served the complaint and notice of investigation on Project Light on May 3, 2017. See Memorandum in Support of Motion by Complainant Electric Mirror, LLC for an Order to Show Cause And for Entry of Default as to Sole Remaining Respondent Project Light, LLC And to Suspend the Procedural Schedule (June 26, 2017) at Ex. A. On June 26, 2017, Electric Mirror moved for an order directing Project Light to show cause why it should not be held in default for failing to respond to the complaint, notice of investigation, and discovery requests. *Id.* at 1. On July 10, 2017, the ALJ granted the motion and ordered Project Light to show cause why it should not be held in default. Project Light did not respond.

On August 3, 2017, the ALJ issued the subject ID, finding Project Light in default. No petition for review of the ID was filed.

The Commission has determined not to review the subject ID.

Section 337(g)(1) and Commission Rule 210.16(c) authorize the Commission to order relief against a respondent found in default, unless, after considering the public interest, it finds that such relief should not issue.

In connection with the final disposition of this investigation, the Commission may: (1) Issue an order that could result in the exclusion of articles manufactured or imported by Project Light; and/or (2) issue cease and desist orders that could result in Project Light being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm’n Op. at 7–10 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors that the Commission will consider include the effect that the exclusion order and/or cease and desists orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission’s action. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Electric Mirror is requested to submit

proposed remedial orders for the Commission’s consideration. Electric Mirror is also requested to state the HTSUS numbers under which the accused products are imported, and to state the date that the ‘414 patent expires. Electric Mirror is further requested to supply identification information on any known importers.

The deadline for filing written submissions has been extended to the close of business on September 20, 2017. The deadline for filing reply submissions has been extended to the close of business on September 27, 2017. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadline stated above and submit eight true paper copies to the Office of the Secretary pursuant to section 210.4(f) of the Commission’s Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (“Inv. No. 337-TA-1055”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract

personnel^[1], solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 8, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-19465 Filed 9-13-17; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[USITC SE-17-042]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 28, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731-TA-313, 314, 317, and 379 (Fourth Review) (Brass Sheet and Strip from France, Germany, Italy, and Japan). The Commission is currently scheduled to complete and file its determinations and views of the Commission by October 13, 2017.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: September 11, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017-19649 Filed 9-12-17; 4:15 pm]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[USITC SE-17-043]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 29, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701-TA-585-586 and 731-TA-1383-1384 (Preliminary) (Stainless Steel Flanges from China and India). The Commission is currently scheduled to complete and file its determinations on October 2, 2017; views of the Commission are currently scheduled to be completed and filed on October 10, 2017.
5. Outstanding action jackets: None. In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: September 11, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017-19648 Filed 9-12-17; 4:15 pm]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[USITC SE-17-040]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 19, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731-TA-847 and 849 (Third Review) (Carbon and

Alloy Seamless Standard, Line, and Pressure Pipe from Japan and Romania). The Commission is currently scheduled to complete and file its determinations and views of the Commission by October 10, 2017.

5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: September 11, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017-19651 Filed 9-12-17; 4:15 pm]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[USITC SE-17-041]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 22, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701-TA-584 and 731-TA-1382 (Preliminary) (Uncoated Groundwood Paper from Canada). The Commission is currently scheduled to complete and file its determinations on September 25, 2017; views of the Commission are currently scheduled to be completed and filed on October 2, 2017.
5. Vote in Inv. No. TA-201-75 (Injury) (Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled into Other Products)).
6. Outstanding action jackets: None. In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

^[1] All contract personnel will sign appropriate nondisclosure agreements.

Issued: September 11, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017-19650 Filed 9-12-17; 4:15 pm]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Producer Price Index Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, "Producer Price Index Survey," 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 16, 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=201705-1220-001 (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-BLS, 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 Producer Price Index (PPI) Survey. The PPI is a measure of price movements as an indicator of inflationary trends for inventory valuation and as a measure of purchasing power of the dollar at the primary market level. The PPI is also used in market and economic research and as a basis for escalation in long-term contracts and purchase agreements. This information collection accumulates data for the ongoing monthly publication of the PPI family of indexes. The BLS Authorizing Statute authorizes this information collection. See 29 U.S.C. 2.

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 1220-0008.

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 September 30, 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 12, 2017 (82 FR 22163).

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

1220-0008. 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-BLS.

Title of Collection: Producer Price Index Survey.

OMB Control Number: 1220-0008.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 26,436.

Total Estimated Number of Responses: 1,127,836.

Total Estimated Annual Time Burden: 105,172 hours.

Total Estimated Annual Other Costs Burden: \$0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: September 5, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017-19506 Filed 9-13-17; 8:45 am]

BILLING CODE 4510-24-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2010-0055]

Recording and Reporting Occupational Injuries and Illnesses; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

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 (PRA). 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 impact of collection requirements on respondents can be properly assessed. The Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of approval for the current information collection requirements of Recording and Reporting Occupational Injuries and Illnesses.

DATES: Comments must be submitted (postmarked, sent, or received) by November 13, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

Regular mail, express mail, hand delivery, or messenger/courier service (hard copy): You may submit your materials to the OSHA Docket Office, Docket No. OSHA-2010-0055, Room N-3653, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-2350, (TTY) (887) 889-5627. OSHA's Docket Office accepts deliveries (hand deliveries, express mail, and messenger/courier service) from 10:00 a.m. to 3:00 p.m. e.t., weekdays.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR), (OSHA-2010-0055). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments, see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the address above. All documents in the

docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

FOR FURTHER INFORMATION CONTACT: Dave Schmidt, Office of Statistical Analysis, OSHA, U.S. Department of Labor, telephone: (202) 693-1886; email: schmidt.dave@dol.gov, or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693-2222; email: owen.todd@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Safety and Health Act (OSH Act) and 29 CFR part 1904 prescribe that certain employers maintain records of job-related injuries and illnesses. The injury and illness records are intended to have multiple purposes. One purpose is to provide data needed by OSHA to carry out enforcement and intervention activities to provide workers a safe and healthful work environment. The data are also needed by the Bureau of Labor Statistics to report on the number and rate of occupational injuries and illnesses in the country. The data also provides information to employers and workers of the kinds of injuries and illnesses occurring in the workplace and their related hazards. Increased employer awareness should result in the identification and voluntary correction of hazardous workplace conditions. Likewise, workers who are provided information on injuries and illnesses will be more likely to follow safe work practices and report workplace hazards. This would generally raise the overall level of safety and health in the workplace. OSHA currently has approval from the Office of Management and Budget (OMB) for the information collection requirements contained in 29 CFR part 1904. That approval will expire on January 31, 2018, unless OSHA applies for an extension of the OMB approval. This notice initiates the process for OSHA to request an extension of the current OMB approval. This notice also solicits public comments on OSHA's existing paperwork burden estimates from those interested parties and seeks public responses to several questions related to the development of OSHA's estimates. Interested parties are requested to review OSHA's estimates, which are based upon the most current data

available, and to comment on their accuracy or appropriateness in today's workplace situation.

II. Current Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in 29 CFR part 1904, Recording and Reporting Occupational Injuries and Illnesses. The Agency is requesting to reduce its current burden hour estimate associated with this Standard from 2,524,458 to 2,253,549 hours for a total reduction of 270,909 hours. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: 29 CFR part 1904, Recording and Reporting Occupational Injuries and Illnesses.

OMB Control Number: 1218-0176.

Affected Public: Business or other for-profits; farms; not-for-profit institutions; State and local government.

Number of Respondents: 1,002,912.

Frequency: On occasion.

Average Time per Response: Various.

Estimated Total Burden Hours: 2,253,549.

Estimated Cost (Operation and Maintenance): \$123,583,587.

III. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows:

(1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA-2010-0055). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office

at (202) 693–2350, (TTY) (877) 889–5627).

Comments and submissions are posted without change at: <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

IV. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 4–2010 (75 FR 55355).

Signed at Washington, DC, on September 8, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–19466 Filed 9–13–17; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 16, 2017. This

application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, at the above address or ACApermits@nsf.gov.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2018–006

1. *Applicant:* Greg Neri, 9612 Woodland Ridge Dr., Tampa, FL 33637.

Activity for Which Permit Is Requested: Enter Antarctic Specially Protected Area (ASPAs). The applicant, an author supported by NSF's Antarctic Artists and Writers Program, would enter ASPAs 121, 155, 157, and 158 to visit the Adelie penguin colony and the Ross Island historic huts. These visits will inform the applicant's writing about the research occurring in and around McMurdo Station and help to establish background materials for his childrens' novel about Antarctic scientists and their work, past and present. The applicant would be escorted by experienced scientists while visiting ASPA 121, Cape Royds, in order to ensure the protection of the penguins and will abide by the management plans of all ASPAs visited. The results of this work are expected to be useful for outreach and education about Antarctica and the scientific research conducted there.

Location: ASPA 121, Cape Royds, Ross Island; ASPA 155, Cape Evans, Ross Island; ASPA 157, Backdoor Bay, Cape Royds, Ross Island; ASPA 158 Hut Point, Ross Island.

Dates: October 18–December 1, 2017.

Permit Application: 2018–009

2. *Applicant:* Kirsten Carlson, 676 Iana Street, Kailua, HI 96734

Activity for Which Permit Is Requested: Enter Antarctic Specially

Protected Area (ASPAs). The applicant, an artist supported by NSF's Antarctic Artists and Writers Program, would enter ASPAs 121, 155, 157, and 158 to visit the Adelie penguin colony and the Ross Island historic huts. The applicant would observe, sketch, and photograph the huts and the penguins. The applicant would be escorted by experienced scientists while visiting ASPA 121, Cape Royds, in order to ensure the protection of the penguins and will abide by the management plans of all ASPAs visited. The results of this work are expected to be useful for outreach and education about Antarctica and the scientific research conducted there.

Location: ASPA 121, Cape Royds, Ross Island; ASPA 155, Cape Evans, Ross Island; ASPA 157, Backdoor Bay, Cape Royds, Ross Island; ASPA 158 Hut Point, Ross Island.

Dates: October 20–November 30, 2017.

Nadene G. Kennedy,

Polar Coordination Specialist, Office of Polar Programs.

[FR Doc. 2017–19503 Filed 9–13–17; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 16, 2017. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, at the above address or ACApermits@nsf.gov.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2018–008

1. *Applicant:* Jill Mikucki, Department of Microbiology, University of Tennessee, Knoxville, TN

Activity for Which Permit Is

Requested: Enter Antarctic Specially Protected Area (ASPAs). The permit applicant proposes to enter ASPA 172, Lower Taylor Glacier and Blood Falls, as well as the Don Juan Pond restricted zone, to perform non-destructive geophysical surveys and to collect surface samples of brines, salts, and sediments. The applicant would use best-practice protocols to ensure the protection of the values of the areas and would use sterile sampling techniques. The applicant also plans to fly over the areas with using helicopter-borne electromagnetic survey technology to map resistivity of these hydrological regions.

Location: ASPA 172, Lower Taylor Glacier and Blood Falls, McMurdo Dry Valleys, Victoria Land; ASMA 2, McMurdo Dry Valleys, Southern Victoria Land; Don Juan Pond.

Dates: October 1, 2017–February 28, 2019.

Permit Application: 2018–010

2. *Applicant:* David J. Smith, NASA Ames Research Center, M/S SCR–261–3, Moffett Field, CA 94035

Activity for Which Permit Is

Requested: Introduce Non-Indigenous Species Into Antarctica. The permit applicant proposes to transport a containment device pre-loaded with dormant microbiological samples to Antarctica to be launched into the Earth's stratosphere as part of NASA's Long Duration Balloon program. The Exposing Microorganisms in the Stratosphere (E–MIST) payload contains five microbial strains: *Bacillus pumilis* SAFR032 (wild type), *Bacillus pumilis* SAFR032 (ISS flown), *Acinetobacter pittii*, *Paenibacillus xerothermodurans*, and *Saccharomyces cerevisiae*. The strains are all glued on in stasis; none

are actively growing or capable of dispersing. All the microbes inside the payload are in triple containment and will remain attached to the substrate before, during and after the balloon flight. The E–MIST payload itself will be attached to the balloon gondola prior to the launch of the balloon, will be recovered along with the main balloon payload, and will be returned to the USA and the home institution.

Location: Ross Ice Shelf, Long Duration Balloon program launch and recovery sites, Antarctica.

Dates: October 1, 2017–March 31, 2020.

Permit Application: 2018–011

3. *Applicant:* Kenneth Sims, Department of Geology and Geophysics, Dept 3006, 1000 E. University Ave, University of Wyoming, Laramie, WY 82071–2000

Activity for Which Permit Is

Requested: Enter Antarctic Specially Protected Area (ASPAs). The permit applicant proposes to enter ASPA 124, Cape Crozier, to collect volcanic rock and tephra samples. The applicant would travel on foot within the ASPA to at least three sampling locations. Samples would be collected using a rock hammer and hand trowels.

Location: ASPA 124, Cape Crozier, Ross Island.

Dates: November 1–December 15, 2017.

Nadene G. Kennedy,

Polar Coordination Specialist, Office of Polar Programs.

[FR Doc. 2017–19504 Filed 9–13–17; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 16, 2017. This

application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, at the above address or ACApermits@nsf.gov. Phone number: 703–292–8224.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2018–013

1. *Applicant:* Linnea Pearson, California Polytechnic State University, Department of Biological Sciences, 1 Grand Avenue, San Luis Obispo CA 93407.

Activity for Which Permit is

Requested: Take, Harmful Interference, Enter Antarctic Specially Protected Area (ASPAs), Import Into USA. The applicant proposes to study the thermoregulatory strategies by which Weddell seal pups maintain eutheria in air and in water and examine the development of diving capability as the animals prepare for independent foraging. This study will take place in Erebus Bay, near McMurdo Station, and may require entry into ASPA 121, Cape Royds. Each year, ten pups will be handled at four time points between one and eight weeks of age. Protocols not requiring sedation (mass, morphometrics, core and surface temperatures, metabolic rates) and protocols requiring anesthesia (body composition, biopsies, blood volume analysis) will be conducted on five pups at all four time points under manual restraint. Metabolic and morphometric measurements will be conducted on a separate cohort of five pups at each of the four time points. The applicant will also conduct behavioral observations, imaging, and may disturb up to 350 Weddell seals. An additional seven Weddell seal pups, 15 Weddell seal adult females, and 20 crabeater seals may be disturbed during procedures on

study animals. Up to two pup mortalities are requested per year, not to exceed three over the course of two field seasons. The applicant also plans to collect tissues from Weddell seals (any age or gender) found dead from natural causes. The permit applicant has applied for a Marine Mammal Protection Act permit for the proposed activities.

Location: Erebus Bay, McMurdo Sound; ASPA 121, Cape Royds.

Dates: October 1, 2017–September 30, 2020.

Permit Application: 2018–012

2. *Applicant:* Jay J. Rotella, Ecology Department, Montana State University, Bozeman, Montana 59717

Activity for Which Permit is Requested: Take, Harmful Interference, Enter Antarctic Specially Protected Area, Import Into USA. The permit applicant plans to continue long-term studies of Weddell seal populations in Erebus Bay and the McMurdo Sound region to evaluate how temporal variation in the marine environment affects individual life histories and population dynamics of a long-lived mammal. These studies may require the applicant and agents to enter into ASPAs in the area including ASPA 137, 155, 121, 157, 158, and 161. Research involves capture and release of up to 675 Weddell seal pups at one to four days after birth for flipper tagging per year. Up to 150 of the pups would also receive a temperature recording flipper tag, be weighed, and have a skin biopsy taken during the initial tagging. These pups would be re-captured at 20 days of age to be weighed, and again at weaning for weighing and removal of the temperature tags. The applicant proposes to capture up to 285 adult Weddell seals per year using a head-bagging technique to place or replace flipper tags. Skin biopsies would be taken from up to 100 previously tagged adult Weddell seals. Up to 75 adult female Weddell seals would be photographed on the three occasions when their pups are weighed to obtain an estimate of body mass and 15 females will be physically weighed during the initial pup tagging to validate the photogrammetry results. The applicant requests two Weddell seal unintentional mortalities, one pup and one adult, per year. The applicant also plans to collect tissues from adult Weddell seals found dead from natural causes. During the course of the study, the applicant anticipates incidental disturbance of Weddell seals and a limited number of crabeater seals and leopard seals. The permit applicant has applied for a

Marine Mammal Protection Act permit for the proposed activities.

Location: Erebus Bay, McMurdo Sound; ASPA 137, North-West White Island, McMurdo Sound; ASPA 155, Cape Evans; ASPA 121, Cape Royds; ASPA 157, Backdoor Bay, Cape Royds, Ross Island; ASPA 158, Hut Point, Ross Island; ASPA 161, Terra Nova Bay, Ross Sea.

Dates: October 1, 2017–September 30, 2022.

Nadene G. Kennedy,

Polar Coordination Specialist, Office of Polar Programs.

[FR Doc. 2017–19505 Filed 9–13–17; 8:45 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2017–194 and CP2017–295; MC2017–195 and CP2017–296; MC2017–196 and CP2017–297; MC2017–197 and CP2017–298; MC2017–198 and CP2017–299; CP2017–300]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 20, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product

currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s):* MC2017–194 and CP2017–295; *Filing Title:* Request of the United States Postal Service to Add First-Class Package Service Contract 80 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 8, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Curtis E. Kidd; *Comments Due:* September 20, 2017.

2. *Docket No(s):* MC2017–195 and CP2017–296; *Filing Title:* Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 55 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 8, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Christopher C.

Mohr; *Comments Due*: September 20, 2017.

3. *Docket No(s)*.: MC2017–196 and CP2017–297; *Filing Title*: Request of the United States Postal Service to Add Priority Mail Contract 354 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date*: September 8, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Christopher C. Mohr; *Comments Due*: September 20, 2017.

4. *Docket No(s)*.: MC2017–197 and CP2017–298; *Filing Title*: Request of the United States Postal Service to Add Priority Mail Contract 355 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date*: September 8, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Matthew R. Ashford; *Comments Due*: September 20, 2017.

5. *Docket No(s)*.: MC2017–198 and CP2017–299; *Filing Title*: Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 56 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date*: September 8, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Matthew R. Ashford; *Comments Due*: September 20, 2017.

6. *Docket No(s)*.: CP2017–300; *Filing Title*: Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement; *Filing Acceptance Date*: September 8, 2017; *Filing Authority*: 39 CFR 3015.5; *Public Representative*: Curtis E. Kidd; *Comments Due*: September 20, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,
Secretary.

[FR Doc. 2017–19543 Filed 9–13–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1)*: September 14, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 8, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 80 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2017–194, CP2017–295.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.
[FR Doc. 2017–19468 Filed 9–13–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1)*: September 14, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 8, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 56 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2017–198, CP2017–299.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.
[FR Doc. 2017–19470 Filed 9–13–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1)*: September 14, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 8, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 355 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2017–197, CP2017–298.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.
[FR Doc. 2017–19472 Filed 9–13–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1)*: September 14, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 8, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 55 to Competitive Product List*. Documents are available at

www.prc.gov, Docket Nos. MC2017–195, CP2017–296.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–19469 Filed 9–13–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* September 14, 2017.

FOR FURTHER INFORMATION CONTACT:

Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 8, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 354 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2017–196, CP2017–297.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–19471 Filed 9–13–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81555; File No. SR–ISE–2017–80]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay Implementation of SR–ISE–2017–32

September 8, 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 28, 2017, Nasdaq ISE, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule

change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delay the implementation of SR–ISE–2017–32, and to make non-substantive, technical amendments to the new By-Laws filed as part of that rule change proposal.

The text of the proposed rule change is available on the Exchange's Web site at www.ise.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to delay the implementation of SR–ISE–2017–32 (hereinafter, “Governance Proposal”) and to make non-substantive, technical amendments to the new By-Laws filed as part of that rule change. The changes are described in detail below.

The Exchange received approval of its Governance Proposal on July 31, 2017.³ Within that rule change, the Exchange proposed to implement the Governance Proposal no later than by the end of the third quarter of 2017 (*i.e.*, by September 30, 2017).⁴ The Exchange notes that its affiliates, Nasdaq GEMX, LLC and Nasdaq MRX, LLC have submitted or will submit nearly identical proposed rule changes, but stated or will state in their proposals that they intend to

implement the proposed rule changes no later than by the end of the fourth quarter of 2017 (*i.e.*, by December 31, 2017).⁵ As such, the Exchange proposes to delay the implementation of the Governance Proposal from a date no later than September 30, 2017 to a date no later than December 31, 2017 in order to align the implementation of the Governance Proposal with its affiliates. The Exchange will announce the specific date in advance through a Regulatory Alert.

The Exchange also proposes to make minor clarifications to the proposed By-Laws that were filed as part of the Governance Proposal. First, the Exchange proposes to amend the last sentence in proposed By-Law Article III, Section 5(c) by changing the current reference therein to Rule 4200 of the Rules of the NASDAQ Stock Market LLC to Rule 5605. The definition of “independent director” is set forth in Rule 5605 of the NASDAQ Stock Market LLC, and not Rule 4200, so the Exchange seeks to correct this reference in its proposed By-Laws. The Exchange also proposes to correct certain typos in the same sentence to indicate that the portion therein that starts with “the Regulatory Oversight Committee shall consist of three members . . .” is a separate, new sentence.

In addition, the Exchange proposes to replace the first sentence in proposed By-Law Article VIII, Section 1 with the following: “These By-Laws may be altered, amended, or repealed, or new By-Laws may be adopted, by a resolution adopted by the Board at any regular or special meeting of the Board or a written agreement executed and delivered by the Company Member.” By-Law Article VIII, Section 1, which contains By-Law amendment provisions, is intended to authorize amendments to the By-Laws by either the Company Member (*i.e.*, International Securities Exchange Holdings, Inc.) or the majority of the Exchange's Board of Directors.⁶ For one, Section 1's title itself states “By the Company Member or Board” to indicate that either the Company Member or the Board is authorized to amend the proposed By-

⁵ See Securities Exchange Act Release No. 81422 (August 17, 2017), 82 FR 40026 (August 23, 2017) (SR–GEMX–2017–37) (Notice of Filing of Proposed Rule Change to Adopt New Corporate Governance).

⁶ See Governance Approval Order at 36504 and accompanying footnote 113. See also Securities Exchange Act Release No. 80530 (April 26, 2017), 82 FR 20508 (May 2, 2017) (SR–ISE–2017–32) (hereinafter, “Notice of Filing”) at 20521. The Exchange states in both the Governance Approval Order and Notice of Filing that amendments to the proposed By-Laws may be enacted by “either the Sole LLC Member or the vote of a majority of the whole Board.”

³ See Securities Exchange Act Release No. 81263 (July 31, 2017), 82 FR 36497 (August 4, 2017) (SR–ISE–2017–32) (hereinafter, “Governance Approval Order”).

⁴ *Id.*

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Laws in the manner set forth in Section 1. Furthermore, the Exchange has always intended to allow amendments to the By-Laws by either the Company Member or the Board, as evidenced by the discussions of this provision in both the Governance Approval Order and Notice of Filing.⁷ The existing language in Section 1 itself, however, provides that the By-Laws may be amended by the Company Member and by the majority of the Exchange's Board of Directors, so the Exchange is now seeking to make the non-substantive change from "and" to "or" in Section 1 to reflect the rule's original intent.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by permitting the Exchange to align the implementation date of its Governance Proposal with its affiliates Nasdaq GEMX, LLC and Nasdaq MRX, LLC, and to make non-substantive corrections to the proposed By-Laws. The Exchange's proposal does not significantly affect the protection of investors or the public interest because this proposal does not make any substantive changes to the Governance Proposal itself; the only changes are to extend the implementation date and to make non-substantive corrections to the proposed By-Laws, as discussed above. As noted above, the Exchange will provide advance notice to members with respect to the specific implementation date through a Regulatory Alert. In addition, the Exchange believes that the non-substantive amendments to the By-Laws proposed herein will alleviate potential confusion as to the applicability of the Exchange's rules, which will protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal does not impose any significant burden on competition because the Governance Proposal and

the proposed non-substantive changes to the By-Laws will apply to all market participants in a uniform manner once implemented.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-ISE-2017-80 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2017-80. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2017-80, and should be submitted on or before October 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-19477 Filed 9-13-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32812; 812-14781]

Innovator ETFs Trust, et al.

September 11, 2017.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32),

¹² 17 CFR 200.30-3(a)(12).

⁷ *Id.*

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(f) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) actively-managed series of certain open-end management investment companies ("Funds") to issue shares redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value ("NAV"); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds ("Funds of Funds") to acquire shares of the Funds.

APPLICANTS: Innovator Capital Management, LLC ("Innovator"), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940, Innovator ETFs Trust (formerly, Academy Funds Trust) (the "Trust"), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Quasar Distributors, LLC (the "Distributor"), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 ("Exchange Act").

FILING DATES: The application was filed on June 7, 2017, and amended on September 8, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 5, 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: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090; Applicants: The Trust and Innovator, 120 N. Hale Street, Suite 200, Wheaton, Illinois 60187; the Distributor, 615 East Michigan Street, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Hae-Sung Lee, Attorney-Adviser, at (202) 551-7345, or Andrea Ottomaneli Magovern, Acting Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's 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.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as actively-managed exchange traded funds ("ETFs").¹ Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an "Authorized Participant," which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.²

¹ Applicants request that the order apply to the initial Fund and any additional series of the Trust, and any other open-end management investment company or series thereof (each, included in the term "Fund"), each of which will operate as an actively-managed ETF. Any Fund will (a) be advised by Innovator or an entity controlling, controlled by, or under common control with Innovator (each, an "Advisor") and (b) comply with the terms and conditions of the application.

² Prior to May 9, 2017, Innovator Management LLC ("Innovator Management") served as the Trust's investment adviser. (Innovator and Innovator Management are not affiliated persons of each other.) Innovator Management entered into an agreement with Innovator pursuant to which Innovator Management transferred the assets of its investment advisory business and related intellectual property to Innovator (the "Transaction"). The closing of the Transaction (the "Closing") occurred on May 9, 2017. The Commission previously granted relief to Innovator Management and the Trust that, other than the identity of the investment adviser, was identical in all material respects to that requested in the application. Innovator Management LLC, et al.,

2. Each Fund will consist of a portfolio of securities and other assets and investment positions ("Portfolio Instruments"). Each Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments that will form the basis for the Fund's calculation of NAV at the end of the day.

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments ("Deposit Instruments"), and shareholders redeeming their shares will receive specified instruments ("Redemption Instruments"). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c-1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent

Investment Company Act Release Nos. 31209 (Aug. 13, 2014) (notice) and 31248 (Sep. 9, 2014) (order) ("Existing Order"). On May 5, 2017, the Commission staff provided oral no-action relief to Innovator, the Trust, and the Distributor to rely on the Existing Order until the earlier of the receipt of any order granted by the Commission on the application or 150 days from the date of the Closing.

shares from trading at a material discount or premium from NAV.

6. With respect to Funds that hold non-U.S. Portfolio Instruments and that effect creations and redemptions of Creation Units in kind, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fourteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are affiliated persons, or second-tier affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Instruments currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.³

³ The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or a second-tier affiliate, of a Fund of Funds because an Advisor or an entity

The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(f) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-19537 Filed 9-13-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81556; File No. SR-NASDAQ-2017-061]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rules 4702 and 4754 Relating to the Nasdaq Closing Cross and To Make Other Related Changes

September 8, 2017.

I. Introduction

On July 13, 2017, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant

controlling, controlled by or under common control with an Advisor provides investment advisory services to that Fund of Funds.

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 amend Exchange Rules 4702 and 4754 relating to the Nasdaq Closing Cross and to make other related changes. The proposed rule change was published for comment in the **Federal Register** on July 27, 2017.³ On August 22, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ The Commission received no comment letters on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1⁵

As described in more detail below, the Exchange proposes to enhance the operation of the Nasdaq Closing Cross by extending the time period during which members may submit LOC Orders,⁶ and to make other changes relating to the Nasdaq Closing Cross and the Nasdaq Opening Cross.

A. Acceptance of LOC Orders and Related Changes

Currently, Exchange Rule 4702(b)(12)(A) provides that LOC Orders may be entered between 4:00 a.m. ET and immediately prior to 3:50 p.m. ET. The Exchange proposes to amend this rule to permit LOC orders to be entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET, provided that there is a First Reference Price.⁷ The Exchange proposes to define the First Reference Price to mean the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 81188 (July 21, 2017), 82 FR 35014 (“Notice”).

⁴ In Amendment No. 1, the Exchange proposes to remove a reference to Retail Order from Exchange Rule 4702(b)(12)(B) and to remove a reference to Retail Orders and RPI Orders from Exchange Rule 4703(l), as these two order types are no longer available on the Exchange. The Exchange also provides an example to illustrate its assertion that permitting members to submit Limit On Close (“LOC”) Orders until immediately prior to 3:55 p.m. would facilitate price discovery in the Nasdaq Closing Cross. Amendment No. 1 is available at <https://www.sec.gov/comments/sr-nasdaq-2017-061/nasdaq2017061.htm>.

⁵ For a more detailed description of the proposal, see Notice, *supra* note 3 and Amendment No. 1, *supra* note 4.

⁶ See Exchange Rule 4702(b)(12) (defining LOC Order).

⁷ The Exchange proposes a related change to Exchange Rule 4702(b)(12)(B) to provide that LOC Orders and Closing Cross/Extended Hours Orders entered at or after 3:55 p.m. ET would be rejected.

Current Reference Price⁸ in the first Order Imbalance Indicator⁹ disseminated at or after 3:50 p.m. ET.¹⁰ As proposed, a LOC Order entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET would be accepted at its limit price, unless the limit price is higher (lower) than the First Reference Price for a LOC order to buy (sell), in which case the LOC order would be re-priced to the First Reference Price.¹¹ If the First Reference Price is not at a permissible minimum increment of \$0.01 or \$0.0001, as applicable, the First Reference Price would be rounded (i) to the nearest permitted minimum increment (with midpoint prices being rounded up) if there is no imbalance, (ii) up if there is a buy imbalance, or (iii) down if there is a sell imbalance.¹²

The Exchange also proposes to amend its rules relating to the LULD Closing Cross¹³ and the Primary Contingency Procedures to reflect that LOC Orders can be entered until immediately prior to 3:55 p.m. Specifically, the Exchange proposes to amend Exchange Rule 4754(b)(6)(C)(i) to permit Market On Close (“MOC”), LOC, and Imbalance Only (“IO”) Orders intended for the Nasdaq Closing Cross that are entered into the system and placed on the book prior to a Trading Pause to remain on the book to participate in the LULD Closing Cross.¹⁴ As a result, if the Exchange conducts an LULD Closing Cross, LOC Orders would be eligible to

be entered until the earlier of the Trading Pause or immediately prior to 3:55 p.m.¹⁵ Similarly, the Exchange proposes to amend Exchange Rule 4754(b)(7)(B) to permit LOC Orders entered prior to 3:55 p.m. to participate in the Contingency Closing Cross.¹⁶

B. Closing Cross/Extended Hours Orders

Currently, Exchange Rule 4702(b)(12)(B) states that, following the Nasdaq Closing Cross, a Closing Cross/Extended Hours Order¹⁷ may not operate as a Post-Only Order, Midpoint Peg Post-Only Order, Supplemental Order, Retail Order, or RPI Order. The Exchange proposes to amend this rule to provide that Post-Only Orders, Midpoint Peg Post-Only Orders, and Supplemental Orders may not operate as Closing Cross/Extended Hours Orders. According to the Exchange, these order types are eligible to participate in the Nasdaq Closing Cross as part of the continuous book, but cannot be entered with a flag designating an on-close instruction, and therefore cannot be Closing Cross/Extended Hours Orders.¹⁸ The Exchange also proposes that Market Maker Peg Orders would no longer be eligible to be entered with a flag designating an on-close instruction, and therefore would no longer be able to operate as Closing Cross/Extended Hours Orders.¹⁹ In addition, the Exchange proposes to delete the reference to Retail Order and RPI Order from Exchange Rule 4702(b)(12)(B), because these order types are no longer offered on the Exchange.²⁰

Finally, Exchange Rule 4702(b)(12)(B) currently provides that certain Closing Cross/Extended Hours Orders entered between 3:50 p.m. and the time of the Nasdaq Closing Cross are treated as IO

Orders. The Exchange proposes to remove this functionality.

C. Order Imbalance Indicator

Currently, Exchange Rule 4752(a)(2) provides that the Order Imbalance Indicator for the Nasdaq Opening Cross includes, among other things, the Current Reference Price, the Imbalance, and the number of paired shares. The definitions of Imbalance,²¹ Current Reference Price,²² and the number of paired shares²³ currently include Open Eligible Interest.²⁴ The Exchange proposes to delete references to Open Eligible Interest from these definitions.²⁵ According to the Exchange, in practice, Open Eligible Interest is not included in the Imbalance, the Current Reference Price, or the number of paired shares.²⁶

Similarly, Exchange Rule 4754(a)(7) provides that the Order Imbalance Indicator for the Nasdaq Closing Cross includes, among other things, the Current Reference Price, the Imbalance, and the number of paired shares. The definitions of Imbalance,²⁷ Current Reference Price,²⁸ and the number of paired shares²⁹ currently include Close Eligible Interest.³⁰ The Exchange proposes to delete references to Close Eligible Interest from these definitions.³¹ According to the Exchange, in practice, Close Eligible Interest is not included in the Imbalance, the Current Reference Price, or the number of paired shares.³²

D. Implementation

The Exchange proposes to implement the functionality described in the proposal in a symbol-by-symbol rollout in either Q3 or Q4 2017.³³ The Exchange

⁸ See Exchange Rule 4754(a)(7)(A) (defining Current Reference Price for the Nasdaq Closing Cross).

⁹ See Exchange Rule 4754(a)(7) (defining Order Imbalance Indicator for the Nasdaq Closing Cross).

¹⁰ See proposed Exchange Rule 4754(a)(9). According to the Exchange, if there is no First Reference Price, a value of zero will be disseminated in the first Order Imbalance Indicator, and a non-zero value indicates that there is a First Reference Price. See Notice, *supra* note 3, at 35015 n.16. The Exchange also states that the presence of a First Reference Price indicates that there is matched buy and sell interest that is eligible to participate in the Nasdaq Closing Cross. See *id.*, at 35015.

¹¹ See proposed changes to Exchange Rule 4702(b)(12)(A).

¹² See *id.*

¹³ The Exchange currently uses the LULD Closing Cross when a Trading Pause pursuant to Exchange Rule 4120(a)(12) is triggered at or after 3:50 p.m. and before 4:00 p.m. See Exchange Rule 4754(b)(6). The Commission recently approved a proposed rule change that provided that the LULD Closing Cross would be used when a Trading Pause exists at or after 3:50 p.m. and before 4:00 p.m. See Securities Exchange Act Release No. 79876 (January 25, 2017), 82 FR 8888 (January 31, 2017) (SR-NASDAQ-2016-131). The Exchange represents that the recently approved change is not yet operative, and the discussion in this proposed rule change is based on currently implemented functionality. See Notice, *supra* note 3, at 35015 n.19.

¹⁴ The Exchange also proposes a conforming change to Exchange Rule 4754(b)(6)(C)(iii).

¹⁵ See Notice, *supra* note 3, at 35015. This change would also correct the rule to reflect that, consistent with current functionality, IO Orders entered prior to a Trading Pause would participate in the LULD Closing Cross, instead of only those IO Orders entered prior to 3:50 p.m. See *id.* MOC Orders entered after 3:50 p.m. would continue to be rejected, and therefore would not be eligible for the LULD Closing Cross. See *id.*, at 35015 n.21.

¹⁶ The Exchange also proposes to correct a typographical error in Exchange Rule 4754(b)(7)(E). In addition, the Exchange proposes to amend Exchange Rule 4754(b)(5), related to auxiliary procedures for the Closing Cross, to correct an erroneous subparagraph cross-reference from (c)(2)(D) to (b)(2)(E).

¹⁷ See Exchange Rule 4702(b)(12)(B) (defining Closing Cross/Extended Hours Order).

¹⁸ See Notice, *supra* note 3, at 35016.

¹⁹ See proposed changes to Exchange Rule 4702(b)(12)(B) and Notice, *supra* note 3, at 35016.

²⁰ See Amendment No. 1, *supra* note 4. See also proposed changes to Exchange Rule 4703(1) (deleting a reference to Retail Orders and RPI Orders).

²¹ See Exchange Rule 4752(a)(1) (defining Imbalance for the Nasdaq Opening Cross).

²² See Exchange Rule 4752(a)(2)(A) (defining Current Reference Price for the Nasdaq Opening Cross).

²³ See Exchange Rule 4752(a)(2)(B) (describing the calculation of the number of paired shares for the Nasdaq Opening Cross).

²⁴ See Exchange Rule 4752(a)(8) (defining Open Eligible Interest).

²⁵ See proposed changes to Exchange Rules 4752(a)(1), 4752(a)(2)(A)(i), and 4752(a)(2)(B).

²⁶ See Notice, *supra* note 3, at 35016–17.

²⁷ See Exchange Rule 4754(a)(2) (defining Imbalance for the Nasdaq Closing Cross).

²⁸ See Exchange Rule 4754(a)(7)(A)(i) (defining Current Reference Price for the Nasdaq Closing Cross).

²⁹ See Exchange Rule 4754(a)(7)(B) (describing the calculation of the number of paired shares for the Nasdaq Closing Cross).

³⁰ See Exchange Rule 4754(a)(1) (defining Close Eligible Interest).

³¹ See proposed changes to Exchange Rules 4754(a)(2), 4754(a)(7)(A)(i), and 4754(a)(7)(B).

³² See Notice, *supra* note 3, at 35016–17.

³³ See *id.*, at 35017.

will announce the implementation date and the symbol rollout in an Equity Trader Alert issued to members prior to the implementation date.³⁴

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.³⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,³⁶ 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.

As discussed above, the Exchange proposes to permit members to submit LOC Orders between 3:50 p.m. and immediately prior to 3:55 p.m. if there is a First Reference Price. The Exchange also proposes to re-price LOC Orders entered during this time period to the First Reference Price if their limit price is more aggressive than the First Reference Price. The Commission believes that these changes could encourage additional participation in the Nasdaq Closing Cross, reduce imbalances, and promote price discovery, without creating a significant impact on the price of the Nasdaq Closing Cross. In addition, as discussed above, the Exchange proposes to permit MOC, LOC, and IO Orders intended for the Closing Cross that are entered into the system and placed on the book prior to the Trading Pause to remain on the book and participate in an LULD Closing Cross. Similarly, the Exchange proposes to permit LOC Orders entered prior to 3:55 p.m. to participate in a Contingency Closing Cross. The Commission believes that these changes are consistent with the proposal to permit members to submit LOC Orders between 3:50 p.m. and immediately prior to 3:55 p.m., and would allow these LOC Orders to participate in an

LULD Closing Cross or Contingency Closing Cross.³⁷

As discussed above, the Exchange proposes to amend Exchange Rule 4702(b)(12)(B) to identify the order types that are currently not eligible to operate as Closing Cross/Extended Hours Orders, provide that Market Maker Peg Orders cannot operate as Closing Cross/Extended Hours Orders, and delete a reference to Retail Order and RPI Order. The Commission believes that these proposed changes are reasonable. The Commission notes that, according to the Exchange, Market Maker Peg Orders are designed to assist Nasdaq members in meeting their quoting obligations, and not to submit interest flagged with an on-close instruction.³⁸ The Commission also notes that Retail Orders and RPI Orders are no longer available on the Exchange.³⁹

Moreover, as discussed above, the Exchange proposes to amend Exchange Rule 4702(b)(12)(B) to eliminate provisions that would treat certain Closing Cross/Extended Hours Orders entered between 3:50 p.m. and the time of the Nasdaq Closing Cross as IO Orders. The Commission notes that the proposal would allow Closing Cross/Extended Hours Orders entered between 3:50 p.m. and immediately prior to 3:55 p.m. to operate as LOC Orders,⁴⁰ rather than converting to IO Orders, which, unlike LOC Orders, do not trade if there is no Imbalance and do not maintain price priority as a result being continuously re-priced to the best bid or offer.⁴¹ The Commission also notes that Nasdaq members may continue to enter IO Orders until the time of execution of the Nasdaq Closing Cross, and may continue to enter other Close Eligible Interest on the continuous book up until the time of the Nasdaq Closing Cross.⁴²

Finally, as discussed above, the Exchange proposes to exclude Open Eligible Interest and Close Eligible Interest from certain information disseminated in the Order Imbalance Indicator for the Nasdaq Opening Cross and the Nasdaq Closing Cross. The

Commission notes that, as proposed, the Imbalance, Current Reference Price, and paired shares calculations would not include types of orders that may be executed in the continuous market before the Opening Cross or the Closing Cross.⁴³ The Commission also notes that these changes would enhance transparency because they would reflect the information that is currently disseminated in the Order Imbalance Indicator.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2017-061 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2017-061. 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;

³⁷ The Commission also notes that the proposal to correct a typographical error in Exchange Rule 4754(b)(7)(E) and to change a cross-reference in Exchange Rule 4754(b)(5) are technical corrections to the rules.

³⁸ See Notice, *supra* note 3, at 35018. The exchange also notes that the proposed changes to Closing Cross/Extended Hours Orders would align its on-close order handling with the characteristics of various order types. See *id.*, at 35014.

³⁹ See Amendment No. 1, *supra* note 4.

⁴⁰ As noted above, LOC Orders and Closing Cross/Extended Hours Orders entered after 3:55 p.m. would be rejected.

⁴¹ See Notice, *supra* note 3, at 35018.

⁴² See *id.*, at 35014.

⁴³ See *id.*, at 35018.

³⁴ See *id.*

³⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁶ 15 U.S.C. 78f(b)(5).

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–NASDAQ–2017–061, and should be submitted on or before October 5, 2017.

V. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of Amendment No. 1 in the *Federal Register*. In Amendment No. 1, the Exchange proposes to remove outdated references to Retail Orders and RPI Orders, which are no longer offered on the Exchange. The Commission believes that deleting these outdated references would help to bring clarity and accuracy to the Exchange rules. The Commission also believes that these changes are of a technical nature and do not materially or substantively alter the proposed rule change. In addition, in Amendment No. 1, the Exchange provides an example to illustrate and support its assertion that extending the time period for the entry of LOC orders until immediately prior to 3:55 p.m. should facilitate the price discovery mechanism of the Nasdaq Closing Cross. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁴⁴ to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁴⁵ that the proposed rule change (SR–NASDAQ–2017–061), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁶

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017–19478 Filed 9–13–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32810; File No. 812–14691]

The Vanguard Group, Inc., et al.

September 8, 2017.

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) actively-managed series of certain open-end management investment companies (“Funds”) to issue shares redeemable in large aggregations only (“Creation Units”); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (“NAV”); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Creation Units for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (“Acquiring Funds”) to acquire shares of the Funds.

APPLICANTS: The Vanguard Group, Inc. (“Initial Adviser”), a Pennsylvania corporation registered as an investment adviser under the Investment Advisers Act of 1940, Vanguard Marketing Corporation (“Distributor”), a wholly-owned subsidiary of the Initial Adviser and a broker-dealer registered under the Securities Exchange Act of 1934 (“Exchange Act”), and Vanguard Admiral Funds, Vanguard Bond Index Funds, Vanguard California Tax-Free Funds, Vanguard Charlotte Funds, Vanguard Chester Funds, Vanguard Convertible Securities Fund, Vanguard Explorer Fund, Vanguard Fenway Funds, Vanguard Fixed Income Securities Funds, Vanguard Horizon Funds, Vanguard Index Funds, Vanguard International Equity Index Funds, Vanguard Malvern Funds,

Vanguard Massachusetts Tax-Exempt Funds, Vanguard Money Market Reserves, Vanguard Montgomery Funds, Vanguard Morgan Growth Fund, Vanguard Municipal Bond Funds, Vanguard New Jersey Tax-Free Funds, Vanguard New York Tax-Free Funds, Vanguard Ohio Tax-Free Funds, Vanguard Pennsylvania Tax-Free Funds, Vanguard Quantitative Funds, Vanguard Scottsdale Funds, Vanguard Specialized Funds, Vanguard STAR Funds, Vanguard Tax-Managed Funds, Vanguard Trustees’ Equity Fund, Vanguard Valley Forge Funds, Vanguard Variable Insurance Funds, Vanguard Wellesley Income Fund, Vanguard Wellington Fund, Vanguard Whitehall Funds, Vanguard Windsor Funds, and Vanguard World Fund, each a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series (each a “Trust,” and together, the “Trusts”).

FILING DATE: The application was filed on August 17, 2016, and amended on May 19, 2017, August 22, 2017, and September 7, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 3, 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: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Brian P. Murphy, Esq., The Vanguard Group, Inc., Mail Stop V26, P.O. Box 2600, Valley Forge, PA 19482–2600.

FOR FURTHER INFORMATION CONTACT: Asen Parachkevov, Senior Counsel, or Daniele Marchesani, Assistant Chief Counsel, at (202) 551–6821 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file

⁴⁴ 15 U.S.C. 78s(b)(2).

⁴⁵ *Id.*

⁴⁶ 17 CFR 200.30–3(a)(12).

number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as actively-managed exchange traded funds (“ETFs”).¹ Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an “Authorized Participant,” which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will consist of a portfolio of securities, instruments, other assets or positions (“Portfolio Positions”). Each Fund will disclose on its Web site the identities and quantities of the Portfolio Positions that will form the basis for the Fund’s calculation of NAV at the end of the day.

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (“Deposit Instruments”), and shareholders redeeming their shares will receive specified instruments (“Redemption Instruments”). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund’s portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants

request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c-1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund’s prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that hold non-U.S. Portfolio Positions and that effect creations and redemptions of Creation Units in kind, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Acquiring Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Acquiring Funds beyond the limits of section 12(d)(1)(B) of the Act. The application’s terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the

Act to permit persons that are affiliated persons, or second tier affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from an Acquiring Fund, and to engage in the accompanying in-kind transactions with the Acquiring Fund.² The purchase of Creation Units by an Acquiring Fund directly from a Fund will be accomplished in accordance with the policies of the Acquiring Fund and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

¹ Applicants request that the order apply to future series of the Trusts and other open-end management investment companies or series thereof that currently exist or that may be created in the future (each, included in the term “Fund”), each of which will operate as an actively-managed ETF. Any series of the Trusts, or of other open-end management investment companies, that have multiple share classes will not be able to rely on the order. Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity or any successor thereto is included in the term “Adviser”) and (b) comply with the terms and conditions of the application. For purposes of the requested order, the term “successor” is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

² The requested relief would apply to direct sales of shares in Creation Units by a Fund to an Acquiring Fund and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or a second-tier affiliate, of an Acquiring Fund because an investment adviser to the Funds is also an investment adviser to the Acquiring Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-19474 Filed 9-13-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-213, OMB Control No. 3235-0220]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

Extension:

Rule 30b2-1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 30b2-1 (17 CFR 270.30b2-1) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) (the "Investment Company Act") requires a registered investment company ("fund") to (1) file a report with the Commission on Form N-CSR (17 CFR 249.331 and 274.128) not later than 10 days after the transmission of any report required to be transmitted to shareholders under rule 30e-1 under the Investment Company Act, and (2) file with the Commission a copy of every periodic or interim report or similar communication containing financial statements that is transmitted by or on behalf of such fund to any class of such fund's security holders and that is not required to be filed with the Commission under (1) above, not later than 10 days after the transmission to security holders. The purpose of the collection of information required by rule 30b2-1 is to meet the disclosure requirements of the Investment Company Act and certification requirements of the Sarbanes-Oxley Act of 2002 (Pub. L. 107-204, 116 Stat. 745 (2002)), and to provide investors with information necessary to evaluate an interest in the fund.

The Commission estimates that there are 2,401 funds, with a total of 11,555

portfolios, that are governed by the rule. For purposes of this analysis, the burden associated with the requirements of rule 30b2-1 has been included in the collection of information requirements of rule 30e-1 and Form N-CSR, rather than the rule. The Commission has, however, requested a one hour burden for administrative purposes.

The collection of information under rule 30b2-1 is mandatory. The information provided under rule 30b2-1 is not kept confidential. 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.

Written 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: September 11, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-19510 Filed 9-13-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32809; File No. 812-14778]

Medley Capital Corporation, et al.

September 8, 2017.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act to

permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (each, a "BDC") and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment funds and accounts.

APPLICANTS: Medley Capital Corporation ("MCC"); Medley SBIC, LP ("Medley SBIC"); Medley SBIC GP, LLC (the "SBIC General Partner"); Medley LLC; MCC Advisors LLC ("MCC Advisors"); Medley Capital LLC, MOF II Management LLC, and MOF III Management LLC (collectively, the "Existing Affiliated Investment Advisers"); MOF II GP LLC, MOF III GP LLC, and Medley Credit Strategies GP, LLC (collectively, the "Existing General Partners"); Medley Opportunity Fund III LP, Medley Opportunity Fund II LP, and Medley Credit Strategies (KOC) LLC (collectively, the "Existing Affiliated Funds"); Sierra Income Corporation ("Sierra"); SIC Advisors LLC ("SIC Advisors"); Sierra Total Return Fund ("STRF"); STRF Advisors LLC ("STRF Advisors"); Sierra Opportunity Fund ("SOF"); and SOF Advisor LLC ("SOF Advisors").

FILING DATE: The application was filed on May 24, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 3, 2017 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549-1090. Applicants: c/o Brooke Taube, Medley Capital Corporation, Seth Taube, Sierra Income Corporation, Sierra Total Return Fund, and Sierra Opportunity Fund, 280 Park Avenue, 6th Floor East, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Hae-Sung Lee, Attorney-Adviser, at (202)

551-7345, or David J. Marcinkus, Branch Chief, at (202) 551-6821 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete 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.

Applicants' Representations

1. MCC is an externally managed, non-diversified, closed-end management investment company that has elected to be regulated as a BDC under the Act.¹ MCC's investment objective is to generate current income and capital appreciation by lending directly to privately-held middle market companies. MCC's board of directors (the "MCC Board") currently consists of seven members, four of whom are not "interested persons" as defined in section 2(a)(19) of the Act (the "Independent Directors"). Each of Brooke Taube and Seth Taube (the "Principals") and Jeff Tonkel serves as an interested director on the MCC Board.

2. Applicants represent that Medley SBIC was organized as a limited partnership under the laws of the state of Delaware and is licensed by the Small Business Administration ("SBA") to operate under the Small Business Investment Act of 1958, as amended ("SBA Act"), as a small business investment company (each such licensed entity, an "SBIC Subsidiary"). Applicants state that Medley SBIC will not be registered under the Act based on the exclusion from the definition of investment company contained in section 3(c)(7). The SBIC General Partner was organized as a limited liability company under the laws of the state of Delaware and is the general partner of Medley SBIC. Applicants represent that Medley SBIC is functionally a wholly-owned subsidiary of MCC because MCC and the SBIC General Partner (which is a wholly-owned subsidiary of MCC) own all of the equity and voting interests in Medley SBIC.

3. Sierra is an externally managed, non-diversified, closed-end management investment company that

has elected to be regulated as a BDC under the Act. Sierra's investment objective is to generate current income and capital appreciation by investing primarily in the debt of privately-held U.S. companies with a focus on senior secured debt, second lien debt and, to a lesser extent, subordinated debt. Sierra's board of directors (the "Sierra Board") currently consists of five members, three of whom are Independent Directors. Each of the Principals serves as an interested director on the Sierra Board.

4. STRF is an externally managed, non-diversified, closed-end management investment company registered under the Act. STRF will be operated as an interval fund. STRF's investment objective is to generate total return through a combination of current income and long-term capital appreciation by investing in a portfolio of debt securities and equities. STRF's board of directors (the "STRF Board") currently consists of five members, three of whom are Independent Directors. Each of the Principals serves as an interested trustee on the STRF Board.

5. SOF is an externally managed, non-diversified, closed-end management investment company registered under the Act. SOF will be operated as an interval fund. SOF's investment objective is to generate current income and, as a secondary objective, long-term capital appreciation. SOF's board of directors (the "SOF Board") currently consists of five members, three of whom are Independent Directors. Each of the Principals serves as an interested trustee on the SOF Board.

6. MCC Advisors is registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act") and serves as the investment adviser to MCC. SIC Advisors is registered as an investment adviser under the Advisers Act and serves as the investment adviser to Sierra. STRF Advisors is registered as an investment adviser under the Advisers Act and serves as an investment adviser to STRF. SOF Advisors is registered as an investment adviser under the Advisers Act and serves as an investment adviser to SOF. The Existing Affiliated Investment Advisers are registered under the Advisers Act and currently serve as investment advisers to the Existing Affiliated Funds. Medley LLC, which is controlled by the Principals, controls each of the Existing Affiliated Investment Advisers.² The Existing General Partners are the general

partners of certain of the Existing Affiliated Funds. The Existing General Partners are direct, wholly-owned subsidiaries of Medley GP Holdings LLC, which is controlled by the Principals.

7. Medley LLC, and its direct, wholly-owned subsidiary, Medley Capital LLC, from time to time, may hold various financial assets in a principal capacity (together, in such capacity, "Existing Medley Proprietary Accounts" and together with any Future Medley Proprietary Account (as defined below), the "Medley Proprietary Accounts").

8. Each of the Existing Affiliated Funds is a separate legal entity and is excluded from the definition of "investment company" under section 3(c)(1) or 3(c)(7) of the Act.

9. Applicants seek to supersede the Prior Order³ to permit a Regulated Entity and one or more other Regulated Entities and/or one or more Affiliated Funds to participate in the same investment opportunities through a proposed co-investment program where such participation would otherwise be prohibited under sections 17(d) and 57(a)(4) and rule 17d-1 (the "Co-Investment Program").⁴ For purposes of the application, a "Co-Investment Transaction" means any transaction in which a Regulated Entity (or its Wholly-Owned Investment Sub, as defined

³ The requested order (the "Order") would supersede an exemptive order issued by the Commission on March 29, 2017 (the "Prior Order") that was granted pursuant to sections 57(a)(4) and 57(i) and rule 17d-1, with the result that no person will continue to rely on the Prior Order if the Order is granted. Medley Capital Corporation, et al., Investment Company Act Release Nos. 32520 (Mar. 03, 2017) (notice) and 32581 (Mar. 29, 2017) (order). All existing entities that currently intend to rely on the Order have been named as applicants. Any other existing or future entity that relies on the Order in the future will comply with the terms and conditions of the application.

⁴ "Future Affiliated Funds" means any entity whose (i) investment adviser is an Affiliated Investment Adviser, (ii) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, (iii) that is not a subsidiary of a Regulated Entity, and (iv) that intends to participate in the Co-Investment Program. "Affiliated Funds" means the Existing Affiliated Funds, the Existing Medley Proprietary Accounts, the Future Affiliated Funds, and any Future Medley Proprietary Accounts. "Regulated Entity" means any of (i) MCC, (ii) Sierra, (iii) STRF, (iv) SOF, or (v) any future closed-end investment company that is registered under the Act or has elected to be regulated as a BDC under the Act, whose investment adviser is a Regulated Entity Adviser, and that intends to participate in the Co-Investment Program. "Regulated Entity Advisers" means (i) MCC Advisors, (ii) SIC Advisors, (iii) STRF Advisors, (iv) SOF Advisors, and (v) any future investment adviser that Medley LLC controls. "Future Medley Proprietary Account" means any direct or indirect, wholly- or majority-owned subsidiary of Medley LLC that is formed in the future that, from time to time, may hold various financial assets in a principal capacity.

¹ Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

² "Affiliated Investment Advisers" means the Existing Affiliated Investment Adviser and any future investment adviser that Medley LLC controls.

below) participated, in reliance on the Order or the Prior Order), (a) together with one or more other Regulated Entities and/or (b) together with one or more Affiliated Funds. A “Potential Co-Investment Transaction” means any investment opportunity in which a Regulated Entity (or its Wholly-Owned Investment Sub) could not participate together with one or more Regulated Entities and/or together with one or more Affiliated Funds without obtaining and relying on the Order. Affiliated Funds that have the capacity to, and elect to, co-invest with the Regulated Entities are referred to as “Participating Funds.”

10. Applicants state that a Regulated Entity may, from time to time, form one or more Wholly-Owned Investment Subs.⁵ Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any Affiliated Fund or another Regulated Entity because it would be a company controlled by the Regulated Entity for purposes of sections 17(d) and 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of the Regulated Entity that owns it and that the Wholly-Owned Investment Sub’s participation in any such transaction be treated, for purposes of the Order, as though the Regulated Entity were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Entity’s investments and, therefore, no conflicts of interest could arise between the Regulated Entity and the Wholly-Owned Investment Sub. The Regulated Entity’s Board would make all relevant determinations under the conditions with regard to a Wholly-

Owned Investment Sub’s participation in a Co-Investment Transaction, and the Regulated Entity’s Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Entity’s place. If the Regulated Entity proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board of the Regulated Entity will also be informed of, and take into consideration, the relative participation of the Regulated Entity and the Wholly-Owned Investment Sub.

11. In selecting investments for each Regulated Entity, the Regulated Entity Advisers will consider the investment objective, investment policies, investment position, capital available for investment, and other factors relevant to the respective Regulated Entities they advise. The Regulated Entity Advisers expect that any portfolio company that is an appropriate investment for a Regulated Entity should also be an appropriate investment for one or more other Regulated Entities and/or one or more Affiliated Funds, with certain exceptions based on available capital or diversification.⁶ The Regulated Entity Adviser, as applicable, will present each Potential Co-Investment Transaction and the proposed allocation of each investment opportunity to the directors of the relevant Regulated Entity’s Board that are eligible to vote under section 57(o) of the Act (the “Eligible Directors”). The “required majority,” as defined in section 57(o) (“Required Majority”) of a Regulated Entity will approve each Co-Investment Transaction prior to any investment by the Regulated Entity.

12. All subsequent activity (*i.e.*, exits or Follow-On Investments, as defined below) in a Co-Investment Transaction will also be made in accordance with the terms and conditions set forth in the application.⁷ A Regulated Entity may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Entity and Affiliated Fund is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On

Investment, as the case may be; and (ii) the Board of the Regulated Entity has approved that Regulated Entity’s participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Entity. If the Board has not given such approval in advance, any such disposition or Follow-On Investment will be submitted to the Regulated Entity’s Eligible Directors. The Board of a Regulated Entity may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

13. Applicants state that none of the Principals will benefit directly or indirectly from any Co-Investment Transaction (other than by virtue of the ownership of securities of MCC and the Affiliated Investment Advisers) or participate individually in any Co-Investment Transaction. In addition, no Independent Director will have any direct or indirect financial interest in any Co-Investment Transaction or any interest in any portfolio company, other than through an interest (if any) in the securities of a Regulated Entity.

Applicants’ Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Entities that are registered closed-end investment companies. Section 17(d) of the Act and rule 17d–1 under the Act prohibit participation by a registered investment company and an affiliated person in any “joint enterprise or other joint arrangement or profit-sharing plan,” as defined in the rule, without prior approval by the Commission by order upon application.

2. Similarly, with regard to BDCs, Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by such BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Affiliated Funds and the other Regulated Entities could be deemed to be a person related to each Regulated Entity in a manner described by section 57(b) by virtue of being under common control with such Regulated Entity.

3. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission’s rules under section 17(d) of the Act applicable to registered

⁵ The term “Wholly-Owned Investment Sub” means an entity (i) that is wholly-owned by a Regulated Entity (with such Regulated Entity at all times holding, beneficially and of record, 100% of the voting and economic interests), (ii) whose sole business purpose is to hold one or more investments on behalf of such Regulated Entity (and, in the case of an SBIC Subsidiary, maintain a license under the SBA Act and issue debentures guaranteed by the SBA); (iii) with respect to which the Regulated Entity’s board of directors (“Board”) has the sole authority to make all determinations with respect to the entity’s participation under the conditions of the application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. All subsidiaries participating in the Co-Investment Program will be Wholly-Owned Investment Subs and will have Objectives and Strategies (as defined below) that are either substantially the same as, or a subset of, their parent Regulated Entity’s Objectives and Strategies. An SBIC Subsidiary may be a Wholly-Owned Investment Sub if it satisfies the conditions in this definition.

⁶ The Regulated Entities, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

⁷ “Follow-On Investments” means additional investments in securities of issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers.

closed-end investment companies will be deemed to apply to BDCs. Because the Commission has not adopted any rules under section 57(a)(4), rule 17d-1 applies.

4. Rule 17d-1, as made applicable to BDCs by section 57(i), prohibits any person who is related to a BDC in a manner described in section 57(b), acting as principal, from participating in, or effecting any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the BDC or a company controlled by such BDC is a participant, absent an order from the Commission. In passing upon applications under rule 17d-1, the Commission considers whether the participation by the BDC or controlled company in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

5. Applicants state that they expect that co-investment in portfolio companies by the Regulated Entities and the Affiliated Funds will increase the number of favorable investment opportunities for the Regulated Entities and that the Co-Investment Program will be implemented only if the Required Majority of the applicable Regulated Entity approves it.

6. Applicants submit that the Required Majority's approval of each Co-Investment Transaction before investment, and other protective conditions set forth in the application, will ensure that the applicable Regulated Entity will be treated fairly. Applicants state that the Regulated Entities' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

7. Under condition 14, if the Regulated Entity Advisers or the Principals, or any person controlling, controlled by, or under common control with the Regulated Entity Advisers or the Principals, and the Affiliated Funds (collectively, the "Holders") own in the aggregate more than 25% of the outstanding voting securities of a Regulated Entity ("Shares"), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Independent Directors will act independently in evaluating the Co-Investment Program, because the ability

of the Regulated Entity Advisers or the Principals to influence the Independent Directors by a suggestion, explicit or implied, that the Independent Directors can be removed will be limited significantly. Applicants represent that the Independent Directors will evaluate and approve any independent third party, taking into accounts its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each time a Regulated Entity Adviser or an Affiliated Investment Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Entity that falls within the then-current Objectives and Strategies of a Regulated Entity,⁸ the appropriate Regulated Entity Adviser will make an independent determination of the appropriateness of the investment for the Regulated Entity in light of the Regulated Entity's then-current circumstances.

2. (a) If a Regulated Entity Adviser deems a Regulated Entity's participation in any Potential Co-Investment Transaction to be appropriate for such Regulated Entity, it will then determine an appropriate level of investment for such Regulated Entity.

(b) If the aggregate amount recommended by Regulated Entity Advisers to be invested by the Regulated Entities in such Potential Co-Investment Transaction, together with the amount proposed to be invested by each Participating Fund, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each such party will be allocated among them pro rata based on each participating party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The Regulated Entity Advisers will provide the respective Eligible Directors with information concerning each party's available capital to assist the Eligible Directors with their review of such Regulated Entity's investments for compliance with these allocation procedures.

⁸ "Objectives and Strategies" means the Regulated Entity's investment objectives and strategies, as described in the Regulated Entity's registration statement on Form N-2, other filings the Regulated Entity has made with the Commission under the Securities Act of 1933, as amended (the "1933 Act"), or under the Securities Exchange Act of 1934, as amended, and the Regulated Entity's reports to stockholders.

(c) After making the determinations required in conditions 1 and 2(a), the Regulated Entity Advisers will distribute written information concerning the Potential Co-Investment Transaction, including the amount proposed to be invested by each Regulated Entity and any Participating Fund, to the Eligible Directors of the each participating Regulated Entity for their consideration. A Regulated Entity will co-invest with another Regulated Entity and/or any Participating Fund only if, prior to participating in the Potential Co-Investment Transaction, a Required Majority of the Regulated Entity concludes that:

(i) The terms of the transaction, including the consideration to be paid, are reasonable and fair to the Regulated Entity and its stockholders and do not involve overreaching in respect of the Regulated Entity or its stockholders on the part of any person concerned;

(ii) the transaction is consistent with (A) the interests of the Regulated Entity's stockholders; and

(B) the Regulated Entity's then-current Objectives and Strategies.

(iii) the investment by another Regulated Entity or one or more Participating Funds would not disadvantage the Regulated Entity, and participation by such Regulated Entity is not on a basis different from or less advantageous than that of any Participating Fund or other Regulated Entity; provided that, if any Participating Fund or other Regulated Entity, but not the Regulated Entity itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if

(A) the Eligible Directors shall have the right to ratify the selection of such director or board observer, if any;

(B) the Regulated Entity Adviser agrees to, and does, provide periodic reports to the Board of the applicable Regulated Entity with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any other Regulated Entity or any Participating Fund or any affiliated person of either receives in connection with the right of a Participating Fund or

other Regulated Entity to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among any Participating Funds (who may, in turn, share their portion with their affiliated persons) and the participating Regulated Entities in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Entity will not benefit the Regulated Entity Advisers, the Affiliated Funds or other Regulated Entities, or any affiliated person of any of them (other than the other parties to the Co-Investment Transaction), except (a) to the extent permitted by condition 13; (b) to the extent permitted by sections 17(e) or 57(k), as applicable; (c) indirectly, as a result of an interest in securities issued by one of the parties to the Co-Investment Transaction; or (d) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Entity has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The Regulated Entity Advisers will present to the Board of each Regulated Entity, as applicable, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by the Affiliated Funds and other Regulated Entities during the preceding quarter that fell within the Regulated Entity's then-current Objectives and Strategies that were not made available to the respective Regulated Entity, and an explanation of why the investment opportunities were not offered to the Regulated Entity. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Entity and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made pursuant to condition 8 below,⁹ a Regulated Entity will not invest in reliance on the Order in any portfolio company in which any other Regulated Entity, any Affiliated Fund, or any affiliated person of any other Regulated Entity or Affiliated Fund is an existing investor.

6. A Regulated Entity will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement

date and registration rights will be the same for such Regulated Entity as for the Participating Funds and/or other Regulated Entities. The grant to an Affiliated Fund or another Regulated Entity, but not such Regulated Entity, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Regulated Entity or Participating Fund elects to sell, exchange, or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, then:

(i) the investment adviser to such Regulated Entity or Participating Fund will notify each other Regulated Entity that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) the investment adviser to each other Regulated Entity that participated in the Co-Investment Transaction will formulate a recommendation as to participation by such Regulated Entity in the disposition.

(b) Each Regulated Entity will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to any Participating Funds and any other Regulated Entities.

(c) A Regulated Entity may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Entity and the Participating Funds in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the applicable Regulated Entity has approved as being in the best interests of the applicable Regulated Entity the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the applicable Regulated Entity is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the applicable Regulated Entity Adviser will provide its written recommendation as to such Regulated Entity's participation to the Eligible Directors, and such Regulated Entity will participate in such disposition solely to the extent that a Required Majority determines that it is in such Regulated Entity's best interests.

(d) Each Regulated Entity and each of the Participating Funds will bear its own expenses in connection with any such disposition.

8. (a) If any Regulated Entity or Participating Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, then:

(i) the investment adviser to such Regulated Entity or Participating Fund will notify each other Regulated Entity that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) the investment adviser to each other Regulated Entity that participated in the Co-Investment Transaction will formulate a recommendation as to the proposed participation, including the amount of the proposed investment, by such Regulated Entity.

(b) A Regulated Entity may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Entity and Participating Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; (ii) the Board of the applicable Regulated Entity has approved as being in the best interests of such Regulated Entity the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the applicable Regulated Entity is provided on a quarterly basis with a list of all Follow-On Investments made in accordance with this condition. In all other cases, the applicable Regulated Entity Adviser will provide its written recommendation as to such Regulated Entity's participation to the Eligible Directors, and such Regulated Entity will participate in such follow-on investment solely to the extent that a Required Majority determines that it is in such Regulated Entity's best interests.

(c) If, with respect to any follow-on investment:

(i) The amount of the opportunity is not based on the Regulated Entities' and the Participating Funds' outstanding investments immediately preceding the follow-on investment; and

(ii) the aggregate amount recommended by the applicable Regulated Entity Adviser to be invested by each Regulated Entity in such Co-Investment Transaction, together with the amount proposed to be invested by the Participating Funds and/or other Regulated Entity, collectively, in the same transaction, exceeds the amount of the investment opportunity, then the

⁹This exception applies only to Follow-On Investments by a Regulated Entity in issuers in which that Regulated Entity already holds investments.

amount to be invested by each such party will be allocated among them pro rata based on each party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and be subject to the other conditions set forth in the application.

9. The Independent Directors of each Regulated Entity will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Entities or Affiliated Funds that the Regulated Entity considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Entity considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Directors will consider at least annually the continued appropriateness for the Regulated Entities of participating in new and existing Co-Investment Transactions.

10. Each Regulated Entity will maintain the records required by section 57(f)(3) as if each of the Regulated Entities were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f).

11. No Independent Director of a Regulated Entity will also be a director, general partner, managing member or principal, or otherwise an "affiliated person" (as defined in the Act) of, any of the Affiliated Funds.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the 1933 Act) shall, to the extent not payable by the Regulated Entity Advisers or the Affiliated Investment Advisers under their respective investment advisory agreements with the Regulated Entities and the Participating Funds, be shared by the applicable Regulated Entities and the Participating Funds in proportion to the relative amounts of their securities held or being acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding brokers' fees contemplated by section 57(k)(2) or 17(e)(2), as applicable) received in connection with

a Co-Investment Transaction will be distributed to the applicable Regulated Entities and the Participating Funds on a pro rata basis based on the amounts each invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by a Regulated Entity Adviser or an Affiliated Investment Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Regulated Entity Adviser or such other adviser, as the case may be, at a bank or banks having the qualifications prescribed in Section 26(a)(1), and the account will earn a competitive rate of interest that will also be divided pro rata among each applicable Regulated Entity and each Participating Fund based on the amount each invests in such Co-Investment Transaction. None of the Affiliated Funds, Regulated Entity Advisers, Affiliated Investment Advisers, or any affiliated person of any of the Regulated Entities will receive additional compensation or remuneration of any kind (other than (a) in the case of the Regulated Entities and the Participating Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C) and (b) in the case of the Regulated Entity Advisers and the Affiliated Advisers, investment advisory fees paid in accordance with the Regulated Entities' and Affiliated Funds' governing agreements) as a result of or in connection with a Co-Investment Transaction.

14. If the Regulated Entity Advisers, the Principals, any person controlling, controlled by, or under common control with the Regulated Entity Advisers or the Principals, and the Affiliated Funds (collectively, the "Holders") own in the aggregate more than 25% of the outstanding voting securities of a Regulated Entity ("Shares"), then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

15. The Medley Proprietary Accounts will not be permitted to invest in a Potential Co-Investment Transaction except to the extent the aggregate demand from the Regulated Entities and the other Affiliated Funds is less than the total investment opportunity.

16. The Regulated Entity Advisers and the Affiliated Investment Advisers will maintain written policies and procedures reasonably designed to ensure compliance with the foregoing

conditions. These policies and procedures will require, among other things, that each Regulated Entity Adviser will be notified of all Potential Co-Investment Transactions that fall within the then-current Objectives and Strategies of any Regulated Entity it advises and will be given sufficient information to make its independent determination and recommendations under conditions 1, 2(a), 7 and 8.

17. Each Regulated Entity's chief compliance officer, as defined in Rule 38a-1(a)(4), will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Entity's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-19473 Filed 9-13-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81554; File No. SR-DTC-2017-017]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add a Discount to the Pricing Schedule for Special Requests for Security Position Reports Relating to Municipal Security Issues

September 8, 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 September 1, 2017, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change by DTC would revise the text of the pricing schedule ("Pricing Schedule") for Security Position Reports ("SPRs")⁵ with respect to charges for special request reports ("Special Requests") relating to municipal security issues ("Muni Issues"). Specifically, the proposed rule change would add to the Pricing Schedule a discount ("Muni Discount") for Special Requests relating to Muni Issues ("Special Muni Requests").⁶

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

SPRs, which are available by subscription on a daily, weekly, or monthly basis,⁷ are listings by CUSIP number of Participants' holdings of Issuer Securities on a specific date for specific Securities, that DTC may provide to Issuers, trustees and authorized third-party Agents of Issuers and trustees (collectively, "Users").⁸ A Special Request, which may be ordered

⁵ Available at <http://www.dtcc.com/asset-services/issuer-services/spr-pricing>.

⁶ Terms not otherwise defined herein have the meaning set forth in the DTC Rules, By-laws and Organization Certificate ("DTC Rules"), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>, and the DTC Operational Arrangements ("OA"), available at <http://www.dtcc.com/~media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf>.

⁷ Daily, weekly, and monthly subscriptions are made on an annual basis. A monthly subscription shows the closing position for each Participant having the applicable Security credited to its Account on the last Business Day of the month. A weekly subscription shows the daily closing position for each Participant having the Security credited to its Account during the week along with the weekly percentage and share changes. A daily subscription shows the closing position for each Participant having the Security credited to its Account on each Business Day.

⁸ OA, *supra* note 6, at 53.

by a User as needed on any given Business Day, shows the closing position for each Participant having the applicable Security credited to its Account on a specified date. Users request these reports for various reasons, including facilitating their proxy activities and communicating with holders with respect to their issues. Because of the cost that DTC incurs in producing these, and other related reports, DTC charges Users a fee when they request a report, as set forth in the Pricing Schedule.⁹

The fee for Special Requests is \$120 per report, per date requested. However, DTC is proposing to provide the Muni Discount for Special Muni Requests to reduce the Users' cost burden relating to high volume Special Muni Requests. The Muni Discount would be applied to Special Requests, using the calculation described further below, when the following criteria ("Muni Discount Criteria") are met:

(i) The CUSIP numbers entered for Special Muni Requests share the same six digit base and the same "Dated Date";¹⁰ and

(ii) the Special Muni Requests are entered on the same Business Day with the same request start date by the same User.

Under the proposed Muni Discount, a User would be charged the standard \$120 fee for a Special Muni Request, but the User would receive for free up to nine additional Special Muni Requests that have the same Muni Discount Criteria as the first Special Muni Request. In other words, if a User purchases one Special Muni Request, the User would receive nine more for free, where those additional nine have the same Muni Discount Criteria. If the User submits an eleventh Special Muni Request that meets the same Muni Discount Criteria as the first, the User would be charged another fee of \$120 for that request, but then the next nine Special Muni Requests with the same Muni Discount Criteria would be free of charge. In the same way, if the User submits a new Special Muni Request with different Muni Discount Criteria than the prior submissions, a fee of \$120 would be charged and the next nine Special Muni Requests conforming to the same criteria would be free of charge.

DTC believes that applying the Muni Discount to Special Muni Requests would allow DTC to align the fees

⁹ *Supra* note 5.

¹⁰ The Dated Date is the date at which interest begins to accrue on fixed income securities, including municipal bonds. A footnote would be added to the Pricing Schedule defining Dated Date.

charged to Users for Special Muni Requests with DTC's costs of providing the related reports, because Special Muni Requests by a User for a single base CUSIP often involve a high volume of requests made simultaneously, allowing the requests to be fulfilled at the same time (rather than, for example, individually on separate days) and therefore resulting in a lower cost per request to DTC than low volume requests or otherwise related requests that may be spread over multiple days.

Proposed Revisions to the Pricing Schedule

In connection with this proposal, DTC would update the Special Requests section of the Pricing Schedule to reflect details of the Muni Discount as described above.

Implementation

The proposed rule change would be effective upon filing.

2. Statutory Basis

Section 17A(b)(3)(D) of the Act¹¹ requires that the rules of the clearing agency be designed, *inter alia*, in general, to provide for the equitable allocation of reasonable dues, fees and other charges. DTC believes that the proposed rule change is consistent with this provision because, by accounting for the reduced costs of processing high volume Special Muni Requests, providing the Muni Discount allows DTC to align the fees charged to Users for such Special Muni Requests with DTC's costs of providing the reports. Thus, by better aligning User fees with DTC's costs of providing Special Muni Requests, the proposed rule change would provide for a better equitable allocation of reasonable dues, fees, and other charges.

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would place a burden on competition because it would not have an effect on User access to SPRs. The proposed rule change may promote competition by allowing Users to make Special Requests in higher volumes as needed to conduct their shareholder communication and other related activities without incurring significantly higher DTC fees.

¹¹ 15 U.S.C. 78q-1(b)(3)(D).

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. DTC will notify the Commission of any written comments received by DTC.

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) of the Act¹² and paragraph (f) of Rule 19b-4 thereunder.¹³ 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.

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-DTC-2017-017 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.
- All submissions should refer to File Number SR-DTC-2017-017. 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 DTC and on DTCC's Web site (<http://dtcc.com/legal/sec-rule-filings.aspx>). 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-DTC-2017-017 and should be submitted on or before October 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-19476 Filed 9-13-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32811; 812-14782]

Innovator ETFs Trust, et al.

September 11, 2017.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies ("Funds") to issue shares redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value ("NAV"); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for

redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds ("Funds of Funds") to acquire shares of the Funds.

APPLICANTS: Innovator ETFs Trust (formerly, Academy Funds Trust) ("Trust"), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, Innovator Capital Management, LLC ("Innovator"), Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940, and Quasar Distributors, LLC ("Distributor"), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 ("Exchange Act").

FILING DATES: The application was filed on June 7, 2017, and amended on September 8, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 5, 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: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090; Applicants: Innovator and the Trust, 120 N. Hale Street, Suite 200, Wheaton IL, 60187; the Distributor, 615 East Michigan Street, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551-6819, or Andrea Ottomanelli Magovern, Acting Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f).

¹⁴ 17 CFR 200.30-3(a)(12).

application. The complete 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.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds ("ETFs").¹ Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an "Authorized Participant," which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application ("Application").²

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act ("Affiliated Person"), or an affiliated person of an Affiliated Person ("Second-Tier Affiliate"), of the Trust or a Fund,

¹ Applicants request that the order apply to the series of the Trust identified and described in an appendix to the Application and any additional series of the Trust, and any other open-end management investment company or series thereof (each, included in the term "Fund"), each of which will operate as an ETF and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an "Underlying Index"). Each Fund will (a) be advised by Innovator or an entity controlling, controlled by, or under common control with Innovator (each, an "Adviser") and (b) comply with the terms and conditions of the Application.

² Prior to May 9, 2017, Innovator Management LLC ("Innovator Management") served as the Trust's investment adviser. (Innovator and Innovator Management are not affiliated persons of each other.) Innovator Management entered into an agreement with Innovator pursuant to which Innovator Management transferred the assets of its investment advisory business and related intellectual property to Innovator (the "Transaction"). The closing of the Transaction (the "Closing") occurred on May 9, 2017. The Commission previously granted relief to Innovator Management, the Trust, and the Distributor that, other than the identity of the investment adviser, was identical in all material respects to that requested in the Application. Innovator Management LLC, et al., Investment Company Act Release Nos. 31996 (Feb. 12, 2016) (notice) and 32026 (Mar. 9, 2016) (order) ("Existing Order"). On May 5, 2017, the Commission staff provided oral no-action relief to Innovator, the Trust, and the Distributor to rely on the Existing Order until the earlier of the receipt of any order granted by the Commission on the Application or 150 days from the date of the Closing.

of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.³

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the Application, purchasers will be required to purchase Creation Units by depositing specified instruments ("Deposit Instruments"), and shareholders redeeming their shares will receive specified instruments ("Redemption Instruments"). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the Application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c-1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request

³ Each Self-Indexing Fund will post on its Web site the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fourteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The Application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.⁴ The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the

⁴ The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman.

Assistant Secretary.

[FR Doc. 2017-19536 Filed 9-13-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736

Extension:

Rule 30b1-8 and Form N-CR SEC File No. 270-657, OMB Control No. 3235-0705

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("Paperwork Reduction Act") (44 U.S.C. 3501-3520), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 30b1-8 under the Act [17 CFR 270.30b1-8], entitled "Current Report

for Money Market Funds," provides that every registered open-end management investment company, or series thereof, that is regulated as a money market fund under rule 2a-7 [17 CFR 270.2a-7], that experiences any of the events specified on Form N-CR [17 CFR 274.222], must file with the Commission a current report on Form N-CR within the time period specified in that form. The information collection requirements for rule 30b1-8 and Form N-CR are designed to assist Commission staff in its oversight of money market funds and its ability to respond to market events. It also provides investors with better and timelier disclosure of potentially important events. Finally, the Commission is able to use the information provided on Form N-CR in its regulatory, disclosure review, inspection, and policymaking roles. The rule imposes a burden per report of approximately 8.5 hours and \$840, so that the total annual burden for the estimated 37 reports filed per year on Form N-CR is 315 hours and \$31,080.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is based on communications with industry representatives, and is not derived from a comprehensive or even a representative survey or study.

The collection of information on Form N-CR is mandatory for any fund that holds itself out as a money market fund in reliance on rule 2a-7. Responses will not be kept confidential. 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.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden(s) of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: September 11, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-19509 Filed 9-13-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81558; File No. SR-BatsBZX-2017-46]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the Aptus Fortified Value ETF, a Series of ETF Series Solutions, Under Exchange Rule 14.11(c)

September 8, 2017.

On July 10, 2017, Bats BZX Exchange, Inc. ("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 list and trade shares of the Aptus Fortified Value ETF, a series of ETF Series Solutions, under Exchange Rule 14.11(c), which governs the listing and trading of Index Fund Shares. The proposed rule change was published for comment in the **Federal Register** on July 28, 2017.³ On August 31, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act⁵ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 11,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 81191 (July 24, 2017), 82 FR 35256.

⁴ Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-batsbzx-2017-46/batsbzx201746-2272678-160970.pdf>.

⁵ 15 U.S.C. 78s(b)(2).

2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 1. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁶ designates October 26, 2017, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change, as modified by Amendment No. 1 (File Number SR-BatsBZX-2017-46).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-19479 Filed 9-13-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736

Extension:

Rule 489 and Form F-N, SEC File No. 270-361, OMB Control No. 3235-0411

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) ("Paperwork Reduction Act"), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 489 (17 CFR 230.489) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) requires foreign banks and foreign insurance companies and holding companies and finance subsidiaries of foreign banks and foreign insurance companies that are exempted from the definition of "investment company" by virtue of rules 3a-1 (17 CFR 270.3a-1), 3a-5 (17 CFR 270.3a-5), and 3a-6 (17 CFR 270.3a-6) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) to file Form F-N (17 CFR 239.43) to appoint an agent for service

of process when making a public offering of securities in the United States. The information is collected so that the Commission and private plaintiffs may serve process on foreign entities in actions and administrative proceedings arising out of or based on the offer or sales of securities in the United States by such foreign entities.

The Commission received an average of 30 Form F-N filings from 22 unique filers each year for the last three years (2014-2016). The Commission has previously estimated that the total annual burden associated with information collection and Form F-N preparation and submission is one hour per filing. Based on the Commission's experience with disclosure documents generally, the Commission continues to believe that this estimate is appropriate. Thus the estimated total annual burden for rule 489 and Form F-N is 30 hours.¹

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of rule 489 and Form F-N is mandatory to obtain the benefit of the exemption. Responses to the collection of information will not be kept confidential. 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.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: September 11, 2017.

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-19511 Filed 9-13-17; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

Celerity Partners SBIC, L.P.

[License No. 09/79-0445]

Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Celerity Partners SBIC, L.P., 11150 Santa Monica Boulevard, Suite 1470, Los Angeles, CA 90025, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the sale of a small concern, has sought an exemption under Section 312 of the Act, Section 107.730(a), you must not self-deal to the prejudice of a Small Business, the Licensee, its shareholders or partners, or SBA., and Section 107.730(e)(3). Associate must not receive any income or anything of value from the Portfolio Concern unless it is for your benefit, with the exception of director's fees, expenses, and distributions based upon the Associate's ownership interest in the Concern. The transaction is brought within the purview of Sections 107.730(a) and 107.730(e)(3) of the Regulations because which constitutes Conflicts of Interest of the Small Business Administration ("SBA") Rules. Celerity Partners SBIC, L.P. proposes to sell eStudy Site Inc. ("eSS), 292 Euclid Ave, Suite 225, San Diego, California 92114, with NRI Clinical Research ("NRI") and, Meridien Research, Inc. ("Meridien"). Because the Associates, Mark Benham and Matt Kraus, will receive proceeds from their investments and carried interests from Meridien and NRI, and a transaction fee, this transaction constitutes Conflict of Interest requiring SBA's prior written exemption.

Notice is hereby given that any interested person may submit written comments on this transaction within fifteen days of the date of this publication to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

A. Joseph Shepard,

Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2017-19484 Filed 9-13-17; 8:45 am]

BILLING CODE P

⁶ *Id.*

⁷ 17 CFR 200.30-3(a)(31).

¹ 30 responses × 1 hour per response = 30 hours per year.

SMALL BUSINESS ADMINISTRATION

[License No. 01/71-0402]

Ticonderoga SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Ticonderoga SBIC, L.P., 25 Braintree Hill Park, Suite 200, Braintree, MA 02184, a Federal Licensee under the Small Business Investment Act of 1958, as amended (“the Act”), in connection with the sale of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730(a), you must not self-deal to the prejudice of a Small Business, the Licensee, its shareholders or partners, or SBA.

The transaction is brought within the purview of § 107.730(a) of the Regulations because which constitutes Conflicts of Interest of the Small Business Administration (“SBA”) Rules. Ticonderoga SBIC, L.P. proposes to sell eStudySite (“eSS”), 292 Euclid Ave, Suite 225, San Diego, California 92114, with Meridien Research, Inc. (“MRI”) and NRI Clinical Research (“NRI”). Because the Associates, including Ticonderoga K1, L.P., Ticonderoga KII L.P., and Craig Jones, will receive proceeds from their investments in NRI, this transaction constitutes Conflict of Interest requiring SBA’s prior approval.

Notice is hereby given that any interested person may submit written comments on this transaction within fifteen days of the date of this publication to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

A. Joseph Shepard,

Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2017-19486 Filed 9-13-17; 8:45 am]

BILLING CODE 8025-01-P**SMALL BUSINESS ADMINISTRATION****Svoboda Capital Fund IV SBIC, L.P.; License No. 05/05-0327; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest**

Notice is hereby given that Svoboda Capital Fund IV SBIC, L.P., One North Franklin Street, Suite 1500, Chicago, IL 60606, a Federal Licensee under the Small Business Investment Act of 1958, as amended (“the Act”), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730,

Financings which Constitute Conflicts of Interest of the Small Business Administration (“SBA”) Rules and Regulations (13 CFR 107.730). Svoboda Capital Fund IV SBIC, L.P. proposes to provide equity security financing to Bully Pulpit Interactive, LLC, 1140 Connecticut Avenue NW., Washington, DC 20036 (“BPI”).

The financing is brought within the purview of § 107.730(a) and (d) of the Regulations because Svoboda Capital Fund IV, L.P. an Associate of Svoboda Capital Fund IV SBIC, L.P., owns more than ten percent of BPI, and therefore this transaction is considered a financing of an Associate requiring prior SBA approval.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: September 6, 2017.

A. Joseph Shepard,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2017-19485 Filed 9-13-17; 8:45 am]

BILLING CODE P**SURFACE TRANSPORTATION BOARD**

[Docket No. FD 36139]

Decatur Central Railroad, L.L.C.— Acquisition and Operation Exemption—Topflight Grain Cooperative, Inc.

Decatur Central Railroad, L.L.C. (DC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Topflight Grain Cooperative, Inc. (Topflight), the assets of a 15.52-mile rail line between milepost 12.11 near Cisco, Piatt County, Ill., and milepost 27.63 (Green’s Switch) near Decatur, Macon County, Ill. (the line).¹ In the verified notice, DC also seeks authority to operate a 2.11-mile segment of the line between milepost 12.11 and milepost 14.22.²

¹ DC was authorized to assume operations over the 13.41-mile segment between milepost 14.22 near Cisco, Piatt County, Ill., and milepost 27.63 (Green’s Switch) near Decatur, Macon County, Ill. That segment was previously operated by Decatur Junction Railway Co. See *Decatur Cent. R.R.—Change in Operator Exemption—Decatur Junction Ry.*, FD 36080 (STB served Jan. 6, 2017).

² DC states that, after assuming operations, the line was found to be 2.11 miles longer than originally thought. DC now seeks authority to operate the 2.11-mile portion which was not included in its December 2016 filing.

DC describes itself as a joint venture between OmniTRAX Holdings Combined, Inc. and Topflight Grain Cooperative, Inc., each of which owns 50% of DC. DC states that Topflight has agreed to convey its ownership interest in the line to DC.

DC certifies that the agreement between Topflight and OmniTRAX does not contain any provision that prohibits DC from interchanging traffic with a third party or limits DC’s ability to interchange traffic with a third-party railroad.

DC also certifies that the proposed transaction will not result in DC’s becoming a Class II or Class I rail carrier and that the projected annual revenue of DC will not exceed \$5 million.

The transaction may be consummated on or after September 28, 2017, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than September 21, 2017 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36139, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Karl Morell, Karl Morell & Associates, Suite 440, 440 1st Street NW., Washington, DC 20001.

According to DC, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting under 49 CFR 1105.8(b).

Board decisions and notices are available on our Web site at WWW.STB.GOV.

Decided: September 11, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,*Clearance Clerk.*

[FR Doc. 2017-19549 Filed 9-13-17; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Twelfth RTCA SC–230 Airborne Weather Detection Systems Plenary**

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

ACTION: Twelfth RTCA SC–230 Airborne Weather Detection Systems Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Twelfth RTCA SC–230 Airborne Weather Detection Systems Plenary. This is a subcommittee to RTCA.

DATES: The meeting will be held October 5–6, 2017 12:00 p.m.–2:00 p.m.

ADDRESSES: The meeting will be held virtually at: <https://rtca.webex.com/rtca/j.php?MTID=m98173957d2643d4c045b7fbb1e15119a>, Join by phone:

1–877–668–4493, US/Canada Toll Free: 1–855–358–5393, Access code: 637 610 482, Meeting Password: 7Qw93McK.

FOR FURTHER INFORMATION CONTACT:

Karan Hofmann at khofmann@rtca.org or 202–330–0680, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at <http://www.rtca.org>.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Twelfth RTCA SC–230 Airborne Weather Detection Systems Plenary. The agenda will include the following:

October 5, 2017 12:00 p.m.–2:00 p.m.

1. Welcome and Administrative Remarks
2. Introductions
3. Agenda Review
4. Meeting Minutes Review and Approval of Last Plenary
5. Review of Proposed Change 1 for SC–220A and SC–213A

October 6, 2017 12:00 p.m.–2:00 p.m.

1. Review of Proposed Change 1 for SC–220A and SC–213A
2. Action Item Review
3. Any Other Business
4. Date and Place of Next Meeting
5. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION**

CONTACT section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on September 11, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–19496 Filed 9–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Summary Notice No. 2017–70]

Petition for Exemption; Summary of Petition Received; Desert Aerospace, LLC.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 4, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0747 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking

process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

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

FOR FURTHER INFORMATION CONTACT: Julia Greenway (202) 267–3896, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0747.

Petitioner: Desert Aerospace, LLC.

Section(s) of 14 CFR Affected: § 61.58.

Description of Relief Sought: The petitioner seeks an exemption from 14 CFR 61.58 for persons operating turbojet self-launching gliders. In place of the pilot-in-command (PIC) proficiency check requirements of § 61.58, the petitioner would like to substitute initial training, recurrent training, and proficiency training specific to self-launching glider operations.

[FR Doc. 2017–19490 Filed 9–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Notice of Final Federal Agency Actions of Proposed Highway/Interchange Improvement in California; Statute of Limitations on Claims**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final. The actions relate to the proposed Improvement Project on State Route 55 (SR–55) between Interstate 405

(I-405) and Interstate 5 (I-5) in the County of Orange, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal Agency Actions on the highway project will be barred unless the claim is filed on or before February 12, 2018. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Charles Baker, Branch Chief—Specialist Unit, Division of Environmental Analysis, California Department of Transportation—District 12, 1750 East 4th Street, Santa Ana, California, 8 a.m. to 5 p.m., (657) 328-6139, charles_baker@dot.ca.gov.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans, has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California. Caltrans proposes to add one general-purpose lane in the northbound and southbound directions, construct a second high-occupancy lane (HOV) in each direction between the I-405 and I-5 HOV direct connectors, and restore existing auxiliary lanes. Additionally, northbound auxiliary lanes will be constructed between the MacArthur Boulevard and Dyer Road, and the Dyer Road and Edinger Avenue interchanges. The restored auxiliary lane between the Edinger Avenue and McFadden Avenue interchanges would be extended to the northbound I-5 connector and the northbound McFadden Avenue onramp would be restricted to the northbound I-5 connector only. As a result, access from the McFadden Avenue on-ramp to northbound SR-55 and southbound I-5 would be eliminated. In the southbound direction, the existing auxiliary lane between the McFadden Avenue and Edinger Avenue interchanges would be restored to match the existing condition. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Initial Study (IS) with Negative Declaration (ND)/Environmental Assessment (EA) with Finding of No Significant Impact (FONSI), approved on August 31, 2017.

The Final IS/EA with ND/FONSI, and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans Final IS/EA with ND/FONSI can be viewed and downloaded from the project Web site at: <http://www.dot.ca.gov/d12/DEA/55/0J340/index.html>. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

- (1) Council on Environmental Quality regulations;
- (2) National Environmental Policy Act (NEPA);
- (3) Moving Ahead for Progress in the 21st Century Act (MAP-21);
- (4) Department of Transportation Act of 1966;
- (5) Federal Aid Highway Act of 1970;
- (6) Clean Air Act Amendments of 1990;
- (7) Noise Control Act of 1970;
- (8) 23 CFR part 772 FHWA Noise Standards, Policies and Procedures;
- (9) Department of Transportation Act of 1966, Section 4(f);
- (10) Clean Water Act of 1977 and 1987;
- (11) Endangered Species Act of 1973;
- (12) Migratory Bird Treaty Act;
- (13) National Historic Preservation Act of 1966, as amended;
- (14) Historic Sites Act of 1935; and,
- (15) Executive Order 13112, Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1)

Tashia J. Clemons,

Director of Program Development, Federal Highway Administration, Sacramento, CA.

[FR Doc. 2017-19518 Filed 9-13-17; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327, U.S. Environmental Protection Agency (USEPA), and U.S. Fish and Wildlife Service (FWS).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, U.S. Environmental Protection Agency (USEPA), and U.S. Fish and Wildlife Service (FWS) that are final. The actions relate to a proposed highway project on the Interstate 5 (I-5) and State Route 56 (SR 56) from postmile (PM) I-5: R32.7 to R34.8 and SR 56: 0.00 to 2.5 in the County of San Diego, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before February 12, 2018. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Mr. Bruce April, Deputy District Director, Division of Environmental Analysis, California Department of Transportation, 4050 Taylor Street, MS 242, San Diego, CA 92110, Regular Office Hours: 8:00 a.m. to 5:00 p.m., Telephone number (619) 688-0100, email Bruce.April@dot.ca.gov. For FHWA: Ms. Lismary Gavillán, Senior Transportation Engineer, 888 S. Figueroa, Ste 750, Los Angeles, CA 90017 Regular Office Hours: 6:00 a.m. to 4:00 p.m., Telephone number (213) 894-6697, email Lismary.Gavillan@dot.gov. For the U.S. Fish and Wildlife Service, Ms. Sally Brown, Caltrans Liaison, 2177 Salk Avenue, Ste 250, Suite 101, Carlsbad, CA 92011, Regular Office Hours 8:00 a.m. to 5:00 p.m., Telephone number (760) 431-9440, email Sally_Brown@fws.gov, the Biological Opinion was received on December 12, 2012.

SUPPLEMENTARY INFORMATION: FHWA's responsibility for environmental review, consultation, and any other action required in accordance with applicable federal laws for this project is being, or was, carried out by Caltrans under its assumption of responsibility pursuant to Fixing America's Surface Transportation (FAST) Act amended 23 U.S.C. 327. Under NEPA Assignment, FHWA assigned and Caltrans assumed all of the USDOT Secretary's responsibilities under NEPA. FHWA and Caltrans executed NEPA Assignment MOU dated December 23, 2016 that identifies FHWA's and Caltrans' roles and responsibilities, describes NEPA Assignment requirements, and officially extends Caltrans' use of the 23 U.S.C.

327. Notice is hereby given that the Caltrans, U.S. Environmental Protection Agency (USEPA), and U.S. Fish and Wildlife Service (FWS) has taken final agency actions subject to 23 U.S.C. 139(J)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The project is located in San Diego County at the I-5/SR 56 Interchange near Carmel Valley Road in San Diego from postmile (PM) I-5: R32.7 to R34.8 and SR 56: 0.00 to 2.5. The proposed project includes improvements to maintain or improve the existing and future traffic operations on the I-5 and SR 56 corridors. The preferred alternative consists adding the two missing connectors (I-5 Southbound to SR 56 Eastbound and SR 56 Westbound to I-5 Northbound). The Del Mar Heights Overcrossing will be replaced with pedestrian enhancements and improved lighting. The Carmel Valley Road will be widened from three to four lanes by the I-5 off-ramp and will be widened from six lanes to eight lanes from I-5 and El Camino Real. Relocation of the AT&T-owned transcontinental fiber-optic line that currently parallels I-5 between Carmel Valley Road and Del Mar Heights Road to within High Bluff Drive and El Camino Real. In addition to the project includes: Auxiliary lanes; sound walls; retaining walls, barriers, guard rails/end treatments, crash cushions, bridge rails, drainage improvements, detention basins, replacement of existing fences, potential installation of fencing for right-of-way, visual and community enhancements; ramp improvements; and appurtenant structures including signage. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Statement (FEIS) for the project, approved on June 26, 2017, in the Record of Decision (ROD) issued on August 13, 2017, and in other documents in the FHWA project records. The FEIS, ROD, and other project records are available by contacting Caltrans at the addresses provided above.

The Caltrans Final FEIS and ROD can be viewed and downloaded from the project Web site at <http://www.dot.ca.gov/d11/environmental/>. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality regulations;
2. National Environmental Policy Act (NEPA);

3. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU);
4. Department of Transportation Act of 1966;
5. Federal Aid Highway Act of 1970;
6. Clean Air Act (CAA) Amendments of 1990;
7. Clean Water Act (CWA) of 1977 and 1987;
8. Federal Water Pollution Control Act of 1972;
9. Endangered Species Act of 1973;
10. Migratory Bird Treaty Act;
11. Farmland Protection Policy Act of 1981;
12. Title VI of the Civil Rights Act of 1964;
13. Uniform Relocation Assistance and Real Property Acquisition Act of 1970;
14. National Historic Preservation Act (NHPA) of 1966;
15. Historic Sites Act of 1935;
16. Resource Conservation and Recovery Act of 1976;
17. Community Environmental Response Facilitation Act (CERFA) of 1992;
18. Executive Order 11990, Protection of Wetlands;
19. Executive Order 13112, Invasive Species;
20. Executive Order 11988, Floodplain Management; and,
21. Executive Order 12898, Environmental Justice.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(J)(1).

Tashia J. Clemons,

Director of Project Development, Federal Highway Administration, Sacramento, California.

[FR Doc. 2017-19517 Filed 9-13-17; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0243]

Hours of Service of Drivers: Application for Exemption; Power and Communication Contractors Association (PCCA)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that the Power and Communication Contractors Association (PCCA) has requested an exemption from the requirement that a motor carrier install and require each of its drivers to use an electronic logging device (ELD) to record the driver's hours-of-service (HOS) no later than December 18, 2017. PCCA requests the exemption for all operators of a commercial motor vehicle (CMV) in the power and communications construction industry. Construction contractors spend considerable time working off-road on varying jobsites, and a single CMV may have several different drivers over the course of a day, moving the vehicle short distances around the jobsite. Because of the limited time within a workday that their drivers spend driving on public roads, PCCA states that ELD and record of duty status (RODS) requirements for drivers in their industries do not result in a significant safety benefit. PCCA's drivers would remain subject to the standard HOS limits and maintain a paper RODS for HOS compliance. PCCA believes that the exemption, if granted, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption. FMCSA requests public comment on PCCA's application for exemption.

DATES: Comments must be received on or before October 16, 2017.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2017-0243 by any of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. See the *Public Participation and Request for Comments* section below for further information.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* 1-202-493-2251.

- Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at

any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614-942-6477. Email: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2017-0243), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to www.regulations.gov and put the docket number, "FMCSA-2017-0243" in the "Keyword" box, and click "Search." When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party, and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail

and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

The PCCA represents contractors, manufacturers, and distributors who build and repair America's power and communications infrastructure, including electric transmission, distribution, and substation facilities and broadband, telephone, and cable television systems. PCCA members also engage in directional drilling, local area and premises wiring, and improvements to water and sewer infrastructure, as well as gas and oil pipelines. While PCCA is not aware of a confirmed, finite number of drivers in the power and communication construction industry, they believe there are tens of thousands of them across the U.S. These are construction workers—driving is incidental to their core job function.

PCCA contractors maintain a wide range of different vehicles, including dump trucks, water-related vehicles, skid trucks, and flatbeds used to carry

heavy excavation equipment. Buses are also used to transport workers to and from a construction jobsite.

The exemption would apply to drivers in the power and communications construction industry, who operate under significantly different circumstances than interstate truck drivers. CMV operators working on broadband and/or electric infrastructure projects commonly drive multiple vehicles for short distances within a single day, and a single vehicle is often driven by multiple drivers.

Numerous exemptions to the ELD and RODS requirements are available depending on varying job functions, including for those operating 8 days in 30-day period, short haul 100 air-mile rule, 150 air-mile rule, utility service vehicle (USV) exemption, ready mix trucks, pipeline welders, etc. The complexity of navigating the ELD and RODS requirements and exemptions make compliance difficult, exposing their drivers to unknowing violations. According to PCCA, application of these requirements to their drivers is confusing even for law enforcement officials. When contrasted against the requirements' minimal benefit to the safety of their drivers, application of the ELD and RODS requirements to their construction personnel proves to be quite unnecessary.

Drivers in the power and communication construction industry commonly operate under the USV exemption as defined under § 395.2 of FMCSRs, which exempts drivers of a USV "used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service." Requiring installation of ELD technology in USVs operated in an industry that is normally exempt from HOS requirements because of the critical nature of its work presents an unnecessary burden.

PCCA's application requests an exemption from requirements to use ELDs in lieu of written logs to document their RODS under 49 CFR 395.8(a). The exemption they are requesting would be limited to their drivers: (1) Who are on duty no more than 14 hours per day; (2) Who drive less than 200 miles per day, regardless of start and stop location; and (3) For whom the driving of CMVs is incidental to their core employment.

IV. Method To Ensure an Equivalent or Greater Level of Safety

According to PCCA, exempting power and communication contractors from ELD requirements would not compromise the safety of drivers in the industry in any way. All rules related to the short-haul exemption would still apply, and drivers would continue to comply with written RODS requirements when short-haul limitations are exceeded. Unlike long-haul interstate truckers, drivers in the construction industry meet a variety of job functions and spend the vast majority of their time on a jobsite within a short distance of their daily assembly point, not on public roads and highways. Power and communication contractors would continue to meet all other HOS requirements overseen by FMCSA.

PCCA believes an equivalent level of safety will be achieved if drivers in the power and communication construction industry are exempt from ELD requirements as described above.

A copy of PCCA's application for exemption is available for review in the docket for this notice.

Issued on: September 8, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017-19512 Filed 9-13-17; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before October 16, 2017.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC or at <http://regulations.gov>.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on August 31, 2017.

Donald Burger,

Chief, Office of the Special Permits and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
SPECIAL PERMITS DATA				
20512-N		Worldwind Helicopters, Inc	172.101(j), 172.200, 172.204(c)(3), 172.300, 173.27(b)(2), 175.30(a)(1), 175.75.	To authorize the transportation in commerce of certain hazardous materials by external load with a helicopter in remote areas of the US without being subject to hazard communication requirements and quantity limitations where no other means of transportation is available. (Mode 4).
20513-N		Rolling Paper Depot, LLC	173.308	To authorize the transportation in commerce of lighters without the use of certain hazard communication. (Mode 1)
20517-N		Advance Research Chemicals, Inc.	173.205	To authorize the transportation in commerce of non-DOT specification cylinders containing materials intended for disposal. (Modes 1, 3).
20518-N		Colep Portugal, S.A	178.33-7	To authorize the manufacture, mark, sale and use of non-DOT specification receptacles conforming with all regulations applicable to a DOT specification (2P and 2Q), except for the wall thickness. (Modes 1, 2, 3).
20519-N		Richemont North America, Inc	173.4b(a), 173.4b(a)(10)	To authorize the transportation in commerce of articles containing a Division 2.1 material as de minimis. (Modes 1, 4, 5).
20522-N		Maine Department of Transportation.	172.101(k), 172.200, 172.300, 172.400, 172.500, 172.600.	To authorize the transportation in commerce of private motor vehicles containing certain hazardous materials via passenger ferry vessels.
20523-N		Whitewave Foods Company, The.	173.306(b)	To authorize the transportation in commerce of non-DOT specification pressure receptacles containing foodstuffs. (Modes 1, 2, 3, 4, 5).
20524-N		Wilhelm Schmidt GmbH	172.102(c)(4), 178.705(c)(2)(ii)	To authorize the manufacture, mark, sale, and use of IBCs intended to contain ammonia solutions and dichloromethane. (Modes 1, 2, 3).
20525-N		Avfuel Corporation	180.407(a)	To authorize the transportation in commerce of certain DOT cargo tanks that have not been requalified in accordance with part 180. (Mode 1).
20526-N		Space Exploration Technologies Corp.	105.30, 105.30(a), 105.30(a)(2).	To authorize the transportation in commerce of low production lithium batteries contained in equipment in non-DOT specification packaging. (Mode 1).

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20527-N		Procyon-Alpha Squared, Inc ..	172.102(c)(1), 172.200, 172.300, 172.400, 173.159a(c)(2), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3).	To authorize the manufacture, mark, sale, and use of non-DOT specification packagings for the transportation in commerce of batteries without hazard communication. (Modes 1, 3).
20528-N		Triest AG Group, Inc ..	180.205(g)	To authorize the transportation in commerce of DOT 4BW240 cylinders that have been requalified by proof pressure test and visual inspection. (Modes 1, 3).
20529-N		Texas Instruments Incorporated.	173.187	To authorize the transportation in commerce of certain pyrophoric solids in UN 4H2 packaging. (Mode 1).
20530-N		CEA Liten ..	172.101(j), 173.185(a)	To authorize the transportation in commerce of prototype lithium ion batteries in excess of 35 kg by cargo-only aircraft. (Mode 4).
20531-N		General Atomics ..	172.101(j), 173.185(a)	To authorize the transportation in commerce of low production lithium batteries in excess of 35 kg by cargo-only aircraft. (Mode 4).
20532-N		Chart Inc ..	172.203(a), 177.834(h)	To authorize the manufacture, mark, sale, and use of DOT 4L cylinders for the discharge of refrigerated liquid gases without removing them from the vehicle on which they are transported. (Mode 1).
20534-N		Energy Transport Solutions LLC.	172.101(i)(3)	To authorize the transportation in commerce of methane, refrigerated liquid in DOT specification 113C120W and 113C140W tank cars. (Mode 2).
20536-N		Amigo Mobility International, Inc.		To authorize the transportation in commerce of lithium batteries without requiring shipper training.
20537-N		Inmark Packaging Limited Liability Company.	173.197(c)	To authorize the transportation in commerce of regulated medical waste in UN 11G packaging. (Mode 1).

[FR Doc. 2017-19342 Filed 9-13-17; 8:45 am]

BILLING CODE 4909-60-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material

Regulations notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before October 16, 2017.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety

Administration, U.S. Department of Transportation, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC or at <http://regulations.gov>.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on August 31, 2017.

Donald Burger,
Chief, Office of the Special Permits and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
SPECIAL PERMITS DATA				
5749-M		Chemours Company FC LLC	173.315(a)	To modify the special permit to authorize the modification of an MC-331 cargo tank by adding a rupture disk under the relief valve on the liquid load line.
9168-M		Berlin Packaging L.L.C ..	173.13(a), 173.13(b), 173.13(c)(1)(ii), 173.13(c)(1)(iv), 173.13(c)(2)(iii).	To modify the special permit to remove the requirement to use an intermediate metal can for inner receptacles containing solid hazardous materials.
10915-M		Luxfer Inc ..	205, 3, 302A, 304A	To modify the special permit to authorize the removal of liner coatings and the gunfire test for cylinders less than .5 liters water capacity.
12187-M		ITW Sexton Inc ..	173.304a(a)	To modify the special permit to authorize and additional 2.2 gas.
13220-M		Entegris, Inc ..	173.302(a), 173.302c(a)	To modify the special permit to remove unauthorized hazmat due to new regulatory changes.
13961-M		3AL Testing ..	172.203(a), 172.301(c), 180.205.	To modify the special permit to remove the requirement for the six month check for gain control accuracy and to authorize a revised dome marking.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
13998-M		3AL Testing	172.203(a), 172.301(c), 180.205.	To modify the special permit to remove the requirement for the six month check for gain control accuracy and to authorize a revised dome marking.
14206-M		Digital Wave Corporation	180.205, 172.203(a), 172.301(c).	To modify the special permit to authorize Ultrasonic Examination of certain DOT UN refillable pressure receptacles and cylinders.
15773-M		Roche Molecular Systems, Inc.	173.242(e)(1)	To modify the special permit to authorize a new packaging design for transporting PG II corrosive materials.
16231-M		Thales Alenia Space	172.101(j), 173.301(f), 173.302a(a)(1), 173.304a(a)(2).	To modify the special permit to authorize an additional Class 1.4S explosive.
20283-M		LG Chem	172.101(j)	To modify the special permit to authorize an additional package.
20292-M		Nuance Systems LLC	173.181, 173.302(a), 173.187, 173.201, 173.211.	To authorize the manufacture, marking sale and use of a non-DOT specification cylinder used to transport pyrophoric materials.
20306-M		Avantor Performance Materials International, Inc.	173.158(e)	To modify the special permit to authorize a change in the minimum thickness of the interior polyvinyl chloride liner coating and to authorize an additional packing for transport.
20336-M		Geotek Coring Inc	173.3(d)	To modify the special permit originally from an emergency special permit to a routine special permit.
20384-N		Beanworthy, LLC	173.185(f), 173.185(f)(2), 173.185(f)(3).	To authorize the manufacture, mark, sale, and use of packagings for the purpose of transporting recalled batteries for recycling/disposal.
20390-M		American RX Group, LLC	Parts 171-180	To modify the special permit from an emergency special permit to a routine special permit.
20403-N		Daws Manufacturing Company, Inc.	177.834(h), 178.705(d), 178.811, 178.812.	To authorize the manufacture, mark, sale and use of non-DOT specification aluminum tanks with capacities not exceeding 95 gallons. Additionally, discharge of Class 3 hazardous materials from the tanks without removing them from the vehicle on which they are transported is authorized.
20414-N		Lockheed Martin Corporation	172.101(j), 173.302(a)	To authorize the transportation of low production batteries aboard cargo-only aircraft.
20417-N		Redemption, Inc	172.101(j), 172.301(c), 173.62(c).	To authorize the transportation in commerce of certain Class 1 explosive materials which are forbidden for transportation by air, to be transported by cargo aircraft within the State of Alaska when other means of transportation are impracticable or not available.
20422-N		Sportsman's Air Service, Inc	172.101(j), 173.242, 175.310(c)(1)(i)(iii).	To authorize the transportation in commerce of certain Class 3 liquid fuels contained in non-DOT specification packaging of up to 250 gallon capacity by cargo aircraft within and to remote areas in Alaska where there is no other practical alternative to air shipments.
20426-N		Energys Advanced Systems Inc.	173.185(a)	To authorize the transportation in commerce of lithium metal cells that are not of a type proven to meet the requirements of the UN Manual of Tests and Criteria.
20429-N		Reclamation Technologies, Inc.	173.301(a)(1), 173.304(a), 173.309.	To authorize the transportation in commerce of non-DOT specification cylinders via contract or dedicated carrier.
20433-N		Brammo, Inc	172.101(j), 173.185(a)	To authorize the transportation in commerce of prototype and low production lithium ion batteries in excess of 35 kg by cargo-only aircraft.
20435-N		Atieva USA Inc	172.101(j), 173.185(a)	To authorize the transportation in commerce of low production lithium ion batteries in excess of 35 kg by cargo-only aircraft.
20452-N		Xalt Energy MI, LLC	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg net weight by cargo-only aircraft.
20463-N		Aerojet Rocketdyne, Inc	172.320(a), 173.56(b), 173.51(a).	To authorize the transportation in commerce of subassembly components of previously approved rocket motors without individual EX classification approvals.
20471-N		Lone Star Specialties LLC	173.213(c)	To authorize the transportation in commerce of flaked coal tar pitch in non-UN certified polypropylene bags.
20477-N		Lithionics Battery, LLC	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg by cargo-only aircraft.
20479-N		Mcabee, Thomas O	171.1, 180.1	To authorize the manufacture, mark, sale and use of non-DOT specification packaging for the transportation in commerce of certain materials authorized to be disposed of under 21 CFR part 1317, subpart B.
20483-N		Qal-Tek Associates LLC	173.431(a)	To authorize the transportation in commerce of normal form radioactive materials in Type A packagings when the activity limit exceeds the A2 value.
20496-N		Kalitta Air, L.L.C	175.30(a)(1), 173.27(b)(2), 173.27(b)(3).	To authorize the transportation in commerce of explosives by cargo aircraft which is forbidden in the regulations.
20497-N		Kalitta Air, L.L.C	175.30(a)(1), 173.27(b)(2), 173.27(b)(3).	To authorize the transportation of explosives by cargo aircraft which is forbidden in the regulations.
20499-N		Med-Turn, Inc	Parts 171-180	To authorize the manufacture, mark, sale and use of non-DOT specification packaging for the transportation in commerce of certain materials authorized to be disposed of under 21 CFR part 1317, subpart B.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20500-N	California Department of Toxic Substances Control.	To authorize the transportation in commerce of hazardous materials used to support the recovery and relief operations from and within the California fire disaster areas.

[FR Doc. 2017-19344 Filed 9-13-17; 8:45 am]
 BILLING CODE 4909-60-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War; Notice of Meeting Cancellation

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act that the meeting of the Advisory Committee on Former Prisoners of War, previously scheduled to be held at the Westin Peachtree Plaza Hotel, 210 Peachtree Street NW., Atlanta, GA 30303, on September 13-15, 2017, *has been cancelled.*

For more information, please contact Leslie N. Williams, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration, Benefits Assistance Service, at (202) 530-9219 or via email at *Leslie.Williams1@va.gov.*

Dated: September 11, 2017.

Jelessa M. Burney,
Federal Advisory Committee Management Officer.

[FR Doc. 2017-19502 Filed 9-13-17; 8:45 am]
 BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Employees Whose Association With For-Profit Educational Institutions Poses No Detriment to Veterans

AGENCY: Department of Veterans Affairs.
ACTION: Notice of intent and request for comments.

SUMMARY: The Department of Veterans Affairs (VA) intends to waive the application of applicable Federal regulations (see **SUPPLEMENTARY INFORMATION**) for all VA employees who receive any wages, salary, dividends, profits, gratuities, or services from, or own any interest in, a for-profit educational institution in which an eligible person or veteran is pursuing a program of education under a VA education benefits program.

DATES: This notice is applicable on October 16, 2017, without further notice, unless VA receives a significant adverse comment by October 16, 2017.

ADDRESSES: Written comments may be submitted by email through *http://www.regulations.gov*; by mail or hand-delivery to Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to “Notice of Intent and request for comments—Employees Whose Association With For-Profit Educational Institutions Poses No Detriment to Veterans.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov*. A significant adverse comment is one that explains why the waiver would be inappropriate, including challenges to the waiver’s underlying premise or approach, or why it would be ineffective or unacceptable without change. If significant adverse comments are received, VA will publish a notice of receipt of significant adverse comments in the **Federal Register** addressing the comments and announcing VA’s final decision on this action.

FOR FURTHER INFORMATION CONTACT: Christopher Britt, Office of General Counsel (02-EST), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202-461-7637 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Department is committed to ensuring that veterans are protected from predatory behavior from for-profit educational institutions. We must also ensure that all employees abide by government ethics laws, particularly the laws that prohibit employees from using their public office for private gain. This is the bedrock of our ethics program: Placing loyalty to the Constitution, laws, and ethical principles above personal interests.

One statute pertaining to for-profit educational institutions—38 U.S.C. 3683—was passed by Congress decades ago, before there were conflict-of-

interest laws applicable to all Executive Branch employees, and was intended to prevent corruption in connection with VA’s administration of benefits under VA education benefits programs. In current practice, however, that statute has illogical and unintended consequences, in that it requires the removal of any VA employee who has any connection to a for-profit educational institution that students attend under a VA education benefits program. As an example, a literal reading of the statute would require the removal of a VA lab technician who takes a class, on her own time and using her own money, at a for-profit educational institution that is also attended by students using VA education benefits. It would also require the removal of a VA physician who teaches an introductory biology class at such a school. The statute applies retroactively, in that it requires VA to remove employees who have no current connection to a for-profit institution but took or taught a class at one at any time during their VA employment. Applying this statute to VA employees who have not engaged in any real conflict of interest would be unjust and detrimental to VA’s ability to serve veterans.

The VA Inspector General (IG) recently issued a report finding that two VA employees violated 38 U.S.C. 3683 when they taught as adjunct faculty at for-profit educational institutions that have students using VA education benefits. Fortunately, that IG report recommended that VA issue waivers, as the statute specifically allows, for employees whose connection with for-profit institutions creates no actual conflict of interest and poses no harm to veterans.

Therefore, under the authority granted by 38 U.S.C. 3683(d) and 38 CFR 21.4005, the Secretary intends to waive the application of 38 U.S.C. 3683(a) for all VA employees who receive any wages, salary, dividends, profits, gratuities, or services from, or own any interest in, a for-profit educational institution in which an eligible person or veteran is pursuing a program of education using VA education benefits, as long as employees abide by the conflict of interest laws discussed in the following paragraph, as the Secretary has determined that no detriment will

result to the United States, veterans, or eligible persons from such activities. The Secretary will reserve his authority to remove an employee under section 3683(a) if the employee has committed, in relation to a for-profit educational institution, a violation of the conflict of interest laws discussed in the following paragraph. This waiver will apply to all employees who previously had a connection to a for-profit educational institution, who currently have a connection to a for-profit educational institution, and who in the future will have a connection to a for-profit educational institution. This includes, but is not limited to, employees whose only connection to a for-profit educational institution is that they have taken, are taking, or will take classes, regardless of how the classes were paid for.

Employees covered by this waiver must continue to abide by 18 U.S.C. 208, which prohibits an employee from participating personally and substantially in VA particular matters that will directly and predictably affect the employee's financial interests. Such financial interests include owning a share of, being employed by, negotiating for employment with, or having an

arrangement for future employment with an outside entity. Employees must also continue to abide by 5 CFR 2635.502, which requires employees to recuse themselves from VA matters when an employee's participation would cause a reasonable person to question the employee's impartiality. Specifically, if an employee has a "covered relationship" with a for-profit educational institution (for example, as a consultant or contractor), that employee must not participate in any VA matters to which the for-profit educational institution is a party, if such participation would cause a reasonable person to question the employee's impartiality.

The provisions of 38 U.S.C. 3683 apply to VA employees who have a connection to a for-profit institution in which an eligible person or veteran was pursuing a program of education or course "under this chapter [*i.e.*, chapter 36] or chapter 34 or 35 of this title [*i.e.*, title 38, United States Code]." In 38 U.S.C. 3034(a)(1), 3241(a)(1), and 3323(a)(1), Congress generally has made the provisions of chapter 36, including section 3683, applicable also to VA education benefits under chapters 30, 32, and 33 or title 38, United States

Code. Accordingly, the requirements of section 3683 apply to for-profit institutions in which an eligible person or veteran was pursuing a program of education or course under chapter 30, 32, 33, 34, 35, or 36 of title 38. The waiver discussed in this notice would apply in circumstances in which the eligible person(s) or veteran(s) were receiving benefits under any of those chapters.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Vivieca Wright Simpson, Chief of Staff, Department of Veterans Affairs, approved this document on September 8, 2017, for publication.

Dated: September 8, 2017.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2017-19480 Filed 9-13-17; 8:45 am]

BILLING CODE 8320-01-P



FEDERAL REGISTER

Vol. 82

Thursday,

No. 177

September 14, 2017

Part II

The President

Proclamation 9635—National Days of Prayer and Remembrance, 2017
Proclamation 9636—Patriot Day, 2017

Presidential Documents

Title 3—

Proclamation 9635 of September 8, 2017

The President

National Days of Prayer and Remembrance, 2017

By the President of the United States of America

A Proclamation

During National Days of Prayer and Remembrance, our Nation recalls the nearly 3,000 innocent people murdered on September 11, 2001. As we reflect on our sorrow and our grief, we come together to pray for those who lost loved ones. As a Nation, we pray that the love of God and the comfort of knowing that those who perished are forever remembered brings them peace and gives them courage.

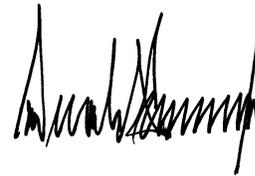
We pause to remember that tragic morning, when our homeland endured unprecedented attacks. As we watched smoke billow from the World Trade Center, we prayed for the safety of our fellow Americans, and we reached out to help, however we could. Now, during these days of prayer and remembrance, we remind ourselves of the lives—mothers, fathers, sons, and daughters—lost at the World Trade Center, at the Pentagon, and aboard United Flight 93 when it crashed near Shanksville, Pennsylvania. We also honor the brave first responders who rushed into crumbling buildings, risking their own lives to rescue others. More than 400 first responders lost their lives in those efforts, so that others would not perish.

Today, a single tree stands near the base of what was once the Twin Towers of the World Trade Center, having survived that fateful day 16 years ago. This tree, the “Survivor Tree,” stands as a living testament to our national character of triumph. Like the Survivor Tree, we continue to stand tall and strong as one Nation. Try as they might, terrorists will never defeat our resilient American spirit.

We also pause to pray for those who fight today and every day to protect our country from terrorism. Those who commit acts of terror only have power if we choose to fear. In remembrance of September 11, 2001, Americans reveal their courage, strength, and resolve.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim Friday, September 8, through Sunday, September 10, 2017, as National Days of Prayer and Remembrance. I ask that the people of the United States mark these National Days of Prayer and Remembrance with prayer, contemplation, memorial services, the visiting of memorials, the ringing of bells, and evening candle-light remembrance vigils. I invite all people around the world to share in these Days of Prayer and Remembrance.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.

A handwritten signature in black ink, appearing to be the name of Donald Trump, written in a cursive style.

Presidential Documents

Proclamation 9636 of September 8, 2017

Patriot Day, 2017

By the President of the United States of America

A Proclamation

On Patriot Day, we honor the nearly 3,000 innocent lives taken from us on September 11, 2001, and all of those who so nobly aided their fellow citizens in America's time of need. We rededicate ourselves to the ideals that define our country and unite us as one, as we commemorate all the heroes who lost their lives saving others.

September 11, 2001, will forever be one of the most tragic days in American history. Through the unimaginable despair, however, ordinary Americans etched into our history remarkable illustrations of bravery, of sacrifice for one another, and of dedication to our shared values. The shock from the indelible images of the smoke rising from the World Trade Center and Pentagon gave way to countless inspiring videos of co-workers helping one another to safety; of heroes running into collapsing buildings to save the innocent people trapped within; and to the unforgettable story of the patriots who charged the cockpit of Flight 93 to save untold numbers of lives. These heroes moved us with their bravery. They make us proud to be Americans.

Throughout history, everyday Americans and first responders have done the extraordinary through selfless acts of patriotism, compassion, and uncommon courage. Not just in New York, Virginia, and Pennsylvania, but across our great Nation, Americans on September 11, 2001, bound themselves together for the common good, saying with one voice that we will be neither scared nor defeated. The enemy attempted to tear at the fabric of our society by destroying our buildings and murdering our innocent, but our strength has not and will not waiver. Americans today remain steadfast in our commitment to liberty, to human dignity, and to one another.

It has been 16 years since the tragedy of September 11, 2001. Children who lost their parents on that day are now parents of their own, while many teenagers currently in high school learn about September 11th only from their history books. Yet all Americans are imbued with the same commitment to cause and love of their fellow citizens as everyone who lived through that dark day. We will never forget. The events of September 11, 2001, did not defeat us. They did not rattle us. They, instead, have rallied us, as leaders of the civilized world, to defeat an evil ideology that preys on innocents and knows nothing but violence and destruction.

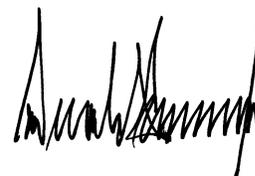
On this anniversary, I invite all Americans to thank our Nation's incredible service members and first responders, who are on the front lines of our fight against terrorism. We will always remember the sacrifices made in defense of our people, our country, and our freedom. The spirit of service and self-sacrifice that Americans so nobly demonstrated on September 11, 2001, is evident in the incredible response to Hurricanes Harvey and Irma. The same spirit of American patriotism we movingly witnessed on September 11th has filled our hearts as we again see the unflinching courage, compassion, and generosity of Americans for their neighbors and countrymen. The service members and first responders who lost their lives on September 11, 2001, and in the years of service since would be proud of what we have all witnessed over these last three weeks and what will undoubtedly

unfold in the coming months of recovery. By protecting those in need, by taking part in acts of charity, service, and compassion, and by giving back to our communities and country, we honor those who gave their lives on and after September 11, 2001.

By a joint resolution approved December 18, 2001 (Public Law 107–89), the Congress has designated September 11 of each year as “Patriot Day.”

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim September 11, 2017, as Patriot Day. I call upon all departments, agencies, and instrumentalities of the United States to display the flag of the United States at half-staff on Patriot Day in honor of the individuals who lost their lives on September 11, 2001. I invite the Governors of the United States and its territories and interested organizations and individuals to join in this observance. I call upon the people of the United States to participate in community service in honor of those our Nation lost, to observe this day with appropriate ceremonies and activities, including remembrance services, and to observe a moment of silence beginning at 8:46 a.m. Eastern Daylight Time to honor the innocent victims who perished as a result of the terrorist attacks of September 11, 2001.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



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Thursday, September 14, 2017

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