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FEDERAL REGISTER

Vol. 82 Wednesday,

No. 181 September 20, 2017

Pages 43827–44052

OFFICE OF THE FEDERAL REGISTER

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. FAA–2017–0586; Special Conditions No. 33–019–SC]

Special Conditions: Safran Aircraft Engines, Silvercrest-2 SC–2D; Rated Takeoff Thrust at High Ambient Temperature

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Safran Aircraft Engines (SAE), Silvercrest-2 SC–2D engine model. This engine model will have a novel or unusual design feature associated with an additional takeoff rating that maintains takeoff thrust in certain high ambient temperature conditions for a maximum accumulated usage of 20 minutes in any one flight. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Effective September 20, 2017.

FOR FURTHER INFORMATION CONTACT: Tara Fitzgerald, AIR–6A1, Engine and Propeller Standards Branch, Aircraft Certification Service, 1200 District Avenue, Burlington, Massachusetts 01803–5213; telephone (781) 238–7130; facsimile (781) 238–7199; email *Tara.Fitzgerald@faa.gov.*

SUPPLEMENTARY INFORMATION: Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**. However, as the certification date for the SAE, Silvercrest-2 SC–2D engine model is imminent; the FAA finds that good cause exists to make these special conditions effective upon publication.

Background

On April 19, 2011, SNECMA, now known as SAE, applied for a type certificate for the Silvercrest-2 SC–2D engine model. On April 30, 2014, SAE requested an extension to their original type certificate application, which the FAA granted through June 30, 2015. On May 26, 2015, SAE requested another extension to their type certificate application, which the FAA granted through September 30, 2018.

SAE proposed an additional takeoff rating that maintains takeoff thrust in certain high ambient temperature conditions with all engines operating (AEO) for the Silvercrest-2 SC–2D engine model. Therefore, the Silvercrest-2 SC–2D engine model would have two different takeoff ratings. The first rating corresponds with the rated takeoff thrust of the engine. The second rating maintains the takeoff thrust in certain high ambient temperature conditions. This additional takeoff rating is named ''Rated Takeoff Thrust at High Ambient Temperature'' (Rated TOTHAT). The ''Rated TOTHAT'' is an approved engine thrust developed under specified altitudes and temperatures within the operating limitations established for the engine during takeoff operation for a maximum usage of 20 minutes in any one flight.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, SAE must show that the Silvercrest-2 SC–2D engine model meets the applicable provisions of 14 CFR part 33, amendments 33–1 through 33–34 in effect on the date of application. The FAA has determined that the applicable airworthiness regulations in part 33 do not contain adequate or appropriate safety standards for the Silvercrest-2 SC–2D engine model because of their novel and unusual design feature referred to as ''Rated TOTHAT''. Therefore, these special conditions are prescribed under the provisions of 14 CFR 11.19 and 14 CFR 21.16, and will become part of the type certification basis for Silvercrest-2 SC–2D engine models in accordance with § 21.17(a)(2).

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the SAE, Silvercrest-2 SC–2D engine model because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the engine model for which they are issued. Should the type certificate for that engine model be amended later to include any other engine model(s) that incorporates the same novel or unusual design feature, the special conditions would also apply to the other engine models under § 21.101.

In addition to complying with the applicable product airworthiness regulations and special conditions, the Silvercrest-2 SC–2D engine model must comply with the fuel venting and exhaust emission requirements of 14 CFR part 34.

Novel or Unusual Design Features

The Silvercrest-2 SC–2D engine model will incorporate a novel or unusual design feature, referred to as ''Rated TOTHAT''. This additional takeoff rating increases the exhaust gas temperature (EGT) limit that maintains takeoff thrust in certain high ambient temperature conditions for a maximum of 20 minutes in any one flight.

Discussion

The ''Rated TOTHAT'' is designed for use during takeoff in specified high altitudes and high ambient temperature conditions. It maintains thrust during takeoff for a maximum of 20 minutes in any one flight. These special conditions contain additional mandatory post-flight inspection and maintenance action requirements associated with any use of the ''Rated TOTHAT''. These requirements add a rating definition in paragraph 1.1 below and mandate required inspections in the instructions for continued airworthiness (ICA); instructions for installing and operating the engine; engine rating and operating limitations; instrument connection; and endurance testing.

The current requirements of the endurance test under 14 CFR 33.87 represent a typical airplane flight profile and the severity of the takeoff rating. Therefore, the endurance test under § 33.87 covers normal, AEO takeoff conditions for which the engine control system limits the engine to the takeoff thrust rating. It is intended to represent

the airplane flight profile during takeoff under specified ambient temperatures for a time until the mandatory inspection and maintenance actions can be performed.

These special conditions require additional test cycles that include at least a 150 hours of engine operation as specified in § 33.87(a), to demonstrate the engine is capable of performing the ''Rated TOTHAT'' rating during AEO conditions without disassembly or modification.

The associated engine deterioration, after use of the ''Rated TOTHAT'', is not known without the intervening mandatory inspections in these special conditions. These mandatory inspections ensure the engine will continue to comply with its certification basis, which includes these special conditions, after any use of the ''Rated TOTHAT''. The applicant is expected to assess the deterioration from use of the ''Rated TOTHAT''. The airworthiness limitations section (ALS) must prescribe the mandatory post-flight inspections and maintenance actions associated with any use of the ''Rated TOTHAT''.

These requirements maintain a level of safety equivalent to the level intended by the applicable airworthiness standards in effect on the date of application.

Discussion of Comments

Notice of proposed special conditions No. 33–17–01–SC for the SAE, Silvercrest-2 SC–2D; Rated Takeoff Thrust at High Ambient Temperature engine model was published in the **Federal Register** on July 03, 2017 (82 FR 30800). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Silvercrest-2 SC–2D engine model. Should SAE apply at a later date for a change to the type certificate to include another model on the same type certificate incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only the ''Rated TOTHAT'' features on Silvercrest-2 SC–2D engine models. It is not a rule of general applicability and applies only to SAE who requested FAA approval of this engine feature.

List of Subjects in 14 CFR Part 33

Aircraft, Engines, Aviation Safety, Reporting and Recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for SAE, Silvercrest-2 SC–2D engine model.

1. Part 1 Definition.

''Rated Take-off Thrust at High Ambient Temperature'' (Rated TOTHAT) means the approved engine thrust developed under specified altitudes and temperatures within the operating limitations established for the engine during takeoff operation. Use is limited to two periods, no longer than 10 minutes each under one engine inoperative (OEI) conditions or 5 minutes each under all engines operating (AEO) conditions in any one flight for a maximum accumulated usage of 20 minutes in any one flight. Each flight where the ''Rated TOTHAT'' is used must be followed by mandatory inspection and maintenance actions.

2. Part 33 Requirements.

In addition to the airworthiness standards in 14 CFR part 33, effective February 1, 1965, which are applicable to the engine and the ''Rated TOTHAT'', the following special conditions apply:

(a) Section 33.4, Instructions for Continued Airworthiness.

(1) The ALS must prescribe the mandatory post-flight inspections and maintenance actions associated with any use of the ''Rated TOTHAT''.

(2) The applicant must validate the adequacy of the inspections and maintenance actions required under paragraph 2(a)(1) of these special conditions.

(3) The applicant must establish an in-service engine evaluation program to ensure the continued adequacy of the instructions for mandatory post-flight inspections and maintenance actions prescribed under paragraph 2(a)(1) of these special conditions, and of the data for thrust assurance procedures required by paragraph 2(b)(2) of these special conditions. The program must include service engine tests or equivalent service engine test experience on engines of similar design and evaluations of service usage of the ''Rated TOTHAT''.

(b) Section 33.5, Instruction manual for installing and operating the engine.

(1) Installation Instructions:

(i) The applicant must identify the means, or provisions for means, provided in compliance with the requirements of paragraph 2(e) of these special conditions.

(ii) The applicant must specify that the engine thrust control system automatically resets the thrust on the operating engine to the ''Rated TOTHAT'' level when one engine fails during takeoff at specified altitudes and temperatures.

(iii) The applicant must specify that the ''Rated TOTHAT'' is available by manual crew selection at specified altitudes and temperatures in AEO conditions.

(2) *Operating Instructions:* The applicant must provide data on engine performance characteristics and variability to enable the airplane manufacturer to establish airplane thrust assurance procedures.

(c) Section 33.7, Engine ratings and operating limitations.

(1) ''Rated TOTHAT'' and the associated operating limitations are established as follows:

(i) The thrust is the same as the engine takeoff rated thrust with extended flat rating corner point.

(ii) The rotational speed limits are the same as those associated with the engine takeoff rated thrust.

(iii) The applicant must establish a gas temperature steady-state limit and, if necessary, a transient gas over temperature limit for which the duration is no longer than 30 seconds.

(iv) The use is limited to two periods of no longer than 10 minutes each under OEI conditions or 5 minutes each under AEO conditions in any one flight, for a maximum accumulated usage of 20 minutes in any one flight. Each flight where the ''Rated TOTHAT'' is used must be followed by mandatory inspections and maintenance actions prescribed by paragraph 2(a)(1) of these special conditions.

(2) The applicant must propose language to include in the type certificate data sheet specified in 14 CFR 21.41 for the following:

(i) ''Rated TOTHAT'' and associated limitations.

(ii) As required by 14 CFR 33.5(b), Operating instructions, include a note stating that ''Rated Takeoff Thrust at High Ambient Temperature (Rated TOTHAT) means the approved engine thrust developed under specified altitudes and temperatures within the operating limitations established for the engine. Use is limited to two periods, no longer than 10 minutes each under OEI

conditions or 5 minutes each under AEO conditions in any one flight, for a maximum accumulated usage of 20 minutes in any one flight. Each flight where the ''Rated TOTHAT'' is used must be followed by mandatory inspection and maintenance actions.''

(iii) As required by § 33.5(b), Operating instructions, include a note stating that ''the engine thrust control system automatically resets the thrust on the operating engine to the ''Rated TOTHAT'' level when one engine fails during takeoff at specified altitudes and temperatures, and the ''Rated TOTHAT'' is available by manual selection when all engines are operational during takeoff at specified altitudes and temperatures.''

(d) Section 33.28, Engine Control Systems.

The engine must incorporate a means, or a provision for a means, for automatic availability and automatic control of the ''Rated TOTHAT'' under OEI conditions and must permit manual activation of the ''Rated TOTHAT'' under AEO conditions.

(e) Section 33.29, Instrument connection.

The engine must:

(1) Have means, or provisions for means, to alert the pilot when the ''Rated TOTHAT'' is in use, when the event begins and when the time interval expires.

(2) Have means, or provision for means, which cannot be reset in flight, to:

(i) Automatically record each use and duration of the ''Rated TOTHAT'', and

(ii) Alert maintenance personnel that the engine has been operated at the ''Rated TOTHAT'' and permit retrieval of recorded data.

(3) Have means, or provision for means, to enable routine verification of the proper operation of the means in paragraph 2(e)(1) and (e)(2) of these special conditions.

(f) Section 33.85(b), Calibration tests.

The applicant must base the calibration test on the thrust check at the end of the endurance test required by § 33.87 of these special conditions.

(g) Section 33.87, Endurance test.

(1) In addition to the applicable requirements of § 33.87(a):

(i) The § 33.87 endurance test must be modified as follows:

(A) Modify the 30 minute test cycle at the rated takeoff thrust in § 33.87(b)(2)(ii) to run one minute at rated takeoff thrust, followed by five minutes at the ''Rated TOTHAT'', followed by the rated takeoff thrust for the remaining twenty-four minutes.

(B) The modified 30 minute period described above in paragraph 2(g)(1)(i)(A) must be repeated ten times in cycles 16 through 25 of the § 33.87 endurance test.

(2) After completion of the tests required by § 33.87(b), as modified in paragraph 2(g)(1)(i) above, and without intervening disassembly, except as needed to replace those parts described as consumables in the ICA, the applicant must conduct the following test sequence for a total time of not less than 120 minutes:

(i) Ten minutes at ''Rated TOTHAT''.

(ii) Eighty-eight minutes at rated maximum continuous thrust.

(iii) One minute at 50 percent of rated takeoff thrust.

(iv) Ten minutes at ''Rated TOTHAT''.

(v) Ten minutes at rated maximum continuous thrust.

(vi) One minute at flight idle.

(3) The test sequence of §§ 33.87(b)(1) through (b)(6) of these special conditions must be run continuously. If a stop occurs during these tests, the interrupted sequence must be repeated unless the applicant shows that the severity of the test would not be reduced if the current tests were continued.

(4) Where the engine characteristics are such that acceleration to the ''Rated TOTHAT'' results in a transient over temperature in excess of the steady-state temperature limit identified in paragraph 2(c)(1)(iii) of these special conditions, the transient gas over temperature must be applied to each acceleration to the ''Rated TOTHAT'' of the test sequence in paragraph 2(g)(2) of these special conditions.

(h) Section 33.93, Teardown inspection.

The applicant must perform the teardown inspection required by § 33.93(a), after completing the endurance test prescribed by § 33.87 of these special conditions.

(i) Section 33.201, Design and test requirements for Early ETOPS eligibility.

In addition to the requirements of § 33.201(c)(1), the simulated ETOPS mission cyclic endurance test must include two cycles of 10 minute duration, each at the ''Rated TOTHAT''; one before the last diversion cycle and one at the end of the ETOPS test.

Issued in Burlington, Massachusetts on August 23, 2017.

Karen M. Grant

Acting Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2017–19952 Filed 9–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0334; Product Identifier 2017–NM–008–AD; Amendment 39–19039; AD 2017–19–09]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–25–01, which applied to certain Bombardier, Inc., Model DHC–8–400 series airplanes. AD 2014–25–01 required modifying the nose landing gear (NLG) trailing arm and installing a new pivot pin retention mechanism. This AD instead requires modifying the NLG shock strut assembly. This AD was prompted by reports of discrepancies of a certain bolt at the pivot pin link, resulting in corrosion of the bolt. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 24, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 24, 2017.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport 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–2017–0334.

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–2017–0334; 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: Fabio Buttitta, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7303; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2014–25–01, Amendment 39–18042 (79 FR 73808, December 12, 2014) (''AD 2014–25–01''). AD 2014–25–01 applied to certain Bombardier, Inc., Model DHC–8–400 series airplanes. The NPRM published in the **Federal Register** on May 9, 2017 (82 FR 21484). The NPRM was prompted by reports of discrepancies of a certain bolt at the pivot pin link, resulting in corrosion of the bolt. The NPRM proposed to require modifying the NLG shock strut assembly. We are issuing this AD to prevent failure of the pivot pin retention bolt, which could result in a loss of directional control or loss of an NLG tire during takeoff or landing.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2009–29R2, dated December 21, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model DHC–8–400 series airplanes. The MCAI states:

> Two in-service incidents have been reported on DHC–8 Series 400 aircraft in which the nose landing gear (NLG) trailing arm pivot pin retention bolt (part number NAS6204–13D) was damaged. One incident involved the left hand NLG tire which ruptured on take-off. Investigation determined that the retention bolt failure was due to repeated contact of the castellated nut with the towing device including both the towbar and the towbarless rigs. The loss of the retention bolt allowed the pivot pin to migrate from its normal position and resulted in contact with and rupture of the tire. The loss of the pivot pin could compromise retention of the trailing arm and could result in a loss of directional control due to loss of nose wheel steering. The loss of an NLG tire or the loss of directional control could adversely affect the aircraft during take-off or landing.
>
> To prevent the potential failure of the pivot pin retention bolt, Bombardier Aerospace has developed a modification which includes a new retention bolt, a reverse orientation of the retention bolt and a rework of the weight on wheel (WOW) proximity sensor cover to provide clearance for the re-oriented retention bolt.
>
> Since the original issue of this [Canadian] AD [which corresponds to AD 2010–13–04, Amendment 39–16335 (75 FR 35622, June 23, 2010)], there have been several reports of pivot pin retention bolts found missing or damaged. Additional investigation determined that the failures were caused by high contact stresses on the retention bolt due to excessive frictional torque on the pivot pin and an adverse tolerance condition at the retention bolt.
>
> Revision 1 of this [Canadian] AD mandated the installation of a new pivot pin retention mechanism.
>
> Since the issuance of Revision 1 of this [Canadian] AD, there have been reports of chrome peeling on special bolt part number 47205–1 at the pivot pin link resulting in corrosion of the bolt substrate layer.
>
> Revision 2 of this [Canadian] AD mandates the installation of new special bolt part number 47205–3 with additional processing for increased chrome plating adhesion on aeroplanes equipped with nose landing gear shock strut assembly part number 47100–19 or any assembly with Bombardier (BA) Service Bulletin (SB) 84–32–110 incorporated. In addition, Revision 2 of this [Canadian] AD mandates the installation of a new pivot pin retention mechanism that includes new special bolt part number 47205–3 on aeroplanes equipped with nose landing gear shock strut assembly part number 47100–9, 47100–11, 47100–13, 47100–15, or 47100–17 without BA SB 84–32–110 incorporated. The corrective actions of Revision 2 of this [Canadian] AD cancel and replace the corrective actions of Revision 1 of this [Canadian] AD.

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–2017–0334.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International concurred with the intent of the NPRM.

Request To Exclude Setup and Closeout Sections

Horizon Air asked that we revise paragraph (g) of the proposed AD to exclude the ''Job Set-up'' and ''Close Out'' sections of Bombardier Service Bulletin 84–32–145, Revision A, dated October 18, 2016. Horizon Air stated that incorporating those sections as a requirement of the AD restricts an operator's ability to perform other maintenance in conjunction with incorporation of the referenced service information.

We agree with the commenter's request for the reason provided. We have revised paragraph (g) of this AD to require accomplishment of only paragraph 3.B., ''Procedure'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–32–145, Revision A, dated October 18, 2016.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued Bombardier Service Bulletin 84–32–145, Revision A, dated October 18, 2016. The service information describes procedures for modifying the NLG shock strut assembly by installing a new, improved pivot pin retention mechanism and a new retention bolt. 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 52 airplanes of U.S. registry.

We also estimate that it takes about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $8,840, or $170 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I,

section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

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

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) 2014–25–01, Amendment 39–18042 (79 FR 73808, December 12, 2014), and adding the following new AD:

2017–19–09 Bombardier, Inc.: Amendment 39–19039; Docket No. FAA–2017–0334; Product Identifier 2017–NM–008–AD.

(a) Effective Date

This AD is effective October 25, 2017.

(b) Affected ADs

This AD replaces AD 2014–25–01, Amendment 39–18042 (79 FR 73808, December 12, 2014).

(c) Applicability

This AD applies to Bombardier, Inc., Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001, 4003 through 4533 inclusive, and 4535, equipped with any nose landing gear (NLG) shock strut assembly having part number 47100–9, 47100–11, 47100–13, 47100–15, 47100–17, or 47100–19.

(d) Subject

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

(e) Reason

This AD was prompted by reports of discrepancies of a certain bolt at the pivot pin link, resulting in corrosion of the bolt. We are issuing this AD to prevent failure of the pivot pin retention bolt, which could result in a loss of directional control or loss of an NLG tire during takeoff or landing.

(f) Compliance

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

(g) Installation of Improved Pivot Pin Retention Mechanism and Bolt

Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first: Install a new pivot pin retention mechanism to the NLG shock strut assembly, and replace the existing pivot pin retention bolt with a new bolt, in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–32–145, Revision A, dated October 18, 2016.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–32–145, dated July 26, 2016.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* 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, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2009–29R2, dated December 21, 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–2017–0334.

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

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

(k) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 84–32–145, Revision A, dated October 18, 2016.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(4) You may view this service information at the FAA, Transport 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 September 7, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–19660 Filed 9–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0555; Product Identifier 2016–NM–183–AD; Amendment 39–19037; AD 2017–19–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2013–02–12, which applied to all EADS CASA (now Airbus Defense and Space S.A.) Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes. AD 2013–02–12 required a one-time inspection to identify the correct polarity for each pair of electrical connectors on each engine fire extinguisher cartridge, and repair if necessary. This AD continues to require identifying the correct polarity of each pair of electrical connectors of the affected engine fire extinguisher cartridge, and doing a repair if necessary. This AD also requires modifying the installation of the fire extinguisher circuit harnesses. This AD was prompted by reports of incorrect electrical polarity connections on engine fire extinguishing discharge cartridges. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 25, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 25, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of March 8, 2013 (78 FR 7262, February 1, 2013).

ADDRESSES: For service information identified in this final rule, contact Airbus Defense and Space Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 31 27; email *MTA.TechnicalService@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–2017–0555.

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–2017–0555; 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: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2013–02–12, Amendment 39–17333 (78 FR 7262, February 1, 2013) (''AD 2013–02–12''). AD 2013–02–12 applied to all EADS CASA (now Airbus Defense and Space S.A.) Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes. The NPRM published in the **Federal Register** on June 16, 2017 (82 FR 27631). The NPRM was prompted by reports of incorrect electrical polarity connections on engine fire extinguishing discharge cartridges. The NPRM proposed to continue to require identifying the correct polarity of each pair of electrical connectors of the affected engine fire extinguisher cartridge, and doing a repair if necessary. The NPRM also proposed to require modifying the installation of the fire extinguisher circuit harnesses. We are issuing this AD to detect and correct incorrect polarity connections, which could prevent the actuation of the discharge cartridge in case of automatic fire detection or manual initiation during a potential engine fire, and could result in damage to the airplane and injury to passengers.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0201, dated October 11, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes. The MCAI states:

> Reports have been received of finding wrong electrical polarity connections of engine fire extinguishing discharge cartridges on CASA CN–235 aeroplanes. The results of the subsequent investigation showed that the incorrect discharge cartridge assembly was caused by production line errors.
>
> This condition, if not detected and corrected, could prevent the actuation of the discharge cartridge in case of automatic fire detection or manual initiation in case of engine fire, possibly resulting in damage to the aeroplane and injury to occupants.
>
> To address this potentially unsafe condition, EADS CASA (Airbus Military) developed instructions to identify erroneous wiring polarity installation and EASA issued AD 2012–0045 [which correlates to FAA AD 2013–02–12, Amendment 39–17333 (78 FR 7262, February 1, 2013)] to require a one-time inspection to verify proper electrical polarity of wiring of each engine fire extinguisher discharge cartridge and, depending on findings, corrective action.
>
> Since [EASA] AD 2012–0045 was issued, Airbus Defence and Space (D&S) developed modification of the installation of the fire extinguisher circuit harnesses, available for in-service installation through Service Bulletin (SB) SB–235–26–0005, which represents technical solution for an unsafe condition addressed by [EASA] AD 2012–0045 for those aeroplanes. Embodiment of this modification introduces a design solution that avoids maintenance errors during (re)connecting of the affected fire extinguisher circuit harnesses after accomplishment of maintenance tasks or functional tests.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2012–0045, which is superseded and

requires identification of the correct polarity after each maintenance action involving (re)connecting of the engine fire extinguisher cartridge electrical connector. This [EASA] AD also requires modification of the affected fire extinguisher circuit harnesses.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0555.

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

Related Service Information Under 1 CFR Part 51

We reviewed EADS CASA Service Bulletin SB–235–26–0005, dated July 9, 2014. This service information describes procedures for modifying the installation of the fire extinguisher circuit harnesses.

We have also reviewed Airbus Military All Operator Letter 235–020, Revision 01, dated November 12, 2013. This service information describes procedures for identifying the correct polarity of each pair of electrical connectors of the affected engine fire extinguisher cartridge, and repairing the erroneous wiring polarity if necessary.

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

Costs of Compliance

We estimate that this AD affects 12 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 (retained action from AD 2013-02-12).	4 work-hours × $85 per hour = $340.	$0	$340	$4,080.
Repetitive Inspection (new action).	3 work-hours × $85 per hour = $255 per inspection cycle.	0	$255 per inspection cycle	$3,060 per inspection cycle.
Modification (new action)	8 work-hour × $85 per hour = $680.	3,280	$3,960	$47,520.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Wiring Correction	1 work-hour × $85 per hour = $85	$0	$85

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) 2013–02–12, Amendment 39–17333 (78 FR 7262, February 1, 2013), and adding the following new AD:

2017–19–07 Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.): Amendment 39–19037; Docket No. FAA–2017–0555; Product Identifier 2016–NM–183–AD.

(a) Effective Date

This AD is effective October 25, 2017.

(b) Affected ADs

This AD replaces AD 2013–02–12, Amendment 39–17333 (78 FR 7262, February 1, 2013) (''AD 2013–02–12'').

(c) Applicability

This AD applies to all Airbus Defense and Space S.A. (formerly known as Construcciones Aeronauticas, S.A.) Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection.

(e) Reason

This AD was prompted by reports of incorrect electrical polarity connections on engine fire extinguishing discharge cartridges. We are issuing this AD to detect and correct incorrect polarity connections, which could prevent the actuation of the discharge cartridge in case of automatic fire detection or manual initiation during a potential engine fire, and could result in damage to the airplane and injury to passengers.

(f) Compliance

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

(g) Retained Inspection, With Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2013–02–12, with revised service information. Within 30 days after March 8, 2013 (the effective date of AD 2013–02–12), do a one-time inspection to identify the correct polarity for each pair of electrical connectors on each engine fire extinguisher cartridge, in accordance with the Instructions of Airbus Military All Operator Letter 235–020, dated March 9, 2012; or Airbus Military All Operator Letter 235–020, Revision 01, dated November 12, 2013.

(h) New Requirement of This AD: Repetitive Inspections

As of 30 days after the effective date of this AD: Before further flight after accomplishing each maintenance task involving disconnection or reconnection of an electrical connector of an engine fire extinguisher cartridge, determine the polarity of each pair of electrical connectors of the affected engine fire extinguisher cartridge, in accordance with the Instructions of Airbus Military All Operator Letter 235–020, Revision 01, dated November 12, 2013.

(i) New Requirement of This AD: Corrective Action

If, during any inspection required by paragraph (g) or (h) of this AD, erroneous wiring polarity installation is detected, before further flight, repair the erroneous polarity in accordance with a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or EADS CASA's EASA Design Organization Approval (DOA).

(j) New Requirement of This AD: Modification

Within 24 months after the effective date of this AD: Modify the installation of the fire extinguisher circuit harnesses, in accordance with the Accomplishment Instructions of EADS CASA Service Bulletin SB–235–26–0005, dated July 9, 2014.

(k) Terminating Action

The modification required in paragraph (j) of this AD terminates the actions required in paragraphs (g) and (h) of 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 the EASA; or EADS CASA's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0201, dated October 11, 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–2017–0555.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

(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.

(3) The following service information was approved for IBR on October 25, 2017.

(i) Airbus Military All Operator Letter 235–020, Revision 01, dated November 12, 2013.

(ii) EADS CASA Service Bulletin SB–235–26–0005, dated July 9, 2014.

(4) The following service information was approved for IBR on March 8, 2013 (78 FR 7262, February 1, 2013).

(i) Airbus Military All Operator Letter 235–020, dated March 9, 2012.

(ii) Reserved.

(5) For service information identified in this AD, contact Airbus Defense and Space Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 31 27; email *MTA.TechnicalService@airbus.com.*

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

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

Issued in Renton, Washington, on September 7, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–19655 Filed 9–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0623; Product Identifier 2017–NM–024–AD; Amendment 39–19038; AD 2017–19–08]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) 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 Defense and Space S.A. Model C–212–CB, C–212–CC, C–212–CD, C–212–CE, and C–212–DF airplanes. This AD was prompted by reports of failures of the rudder pedal control system support. This AD requires modifying the rudder pedal adjustment system. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 25, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 25, 2017.

ADDRESSES: For service information identified in this final rule, contact Airbus Defense and Space Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 31 27; email *MTA.TechnicalService@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–2017–0623.

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–2017–0623; 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: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; 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 Defense and Space S.A. Model C–212–CB, C–212–CC, C–212–CD, C–212–CE, and C–212–DF airplanes. The NPRM published in the **Federal Register** on June 27, 2017 (82 FR 29019) (''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 2017–0036, dated February 21, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Defense and Space S.A. Model C–212–CB, C–212–CC, C–212–CD, C–212–CE, and C–212–DF airplanes. The MCAI states:

> Failures were reported of the pedal control system support of CASA C–212 aeroplanes. Subsequent investigation revealed that the welding area of the affected support structure had broken.
>
> This condition, if not corrected, could lead to failure of the rudder control system, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, EADS–CASA issued Service Bulletin (SB) SB–212–27–0057 to provide modification instructions.
>
> For the reasons described above, this [EASA] AD requires modification of the rudder pedal adjustment system.

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–2017–0623.

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

Airbus Defense and Space S.A. has issued EADS CASA Service Bulletin SB–212–27–0057, dated May 21, 2014. This service information describes procedures for modifying the rudder pedal adjustment system. 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 42 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	9 work-hours × $85 per hour = $765	$5,683	$6,448	$270,816

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):

2017–19–08 Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.): Amendment 39–19038; Docket No. FAA–2017–0623; Product Identifier 2017–NM–024–AD.

(a) Effective Date

This AD is effective October 25, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Defense and Space S.A. Model C–212–CB, C–212–CC, C–212–CD, C–212–CE, and C–212–DF airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by reports of failures of the rudder pedal control system support and a determination that the welding area of the affected support structure had broken. We are issuing this AD to prevent failure of the rudder control system, which could result in reduced controllability of the airplane.

(f) Compliance

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

(g) Modification

Within 12 months after the effective date of this AD: Modify the rudder pedal adjustment system, in accordance with the Accomplishment Instructions of EADS CASA Service Bulletin SB–212–27–0057, dated May 21, 2014.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2017–0036, dated February 21, 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–2017–0623.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

(j) Material Incorporated by Reference

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

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

(i) EADS CASA Service Bulletin SB–212–27–0057, dated May 21, 2014.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus Defense and Space Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 31 27; email *MTA.TechnicalService@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 September 7, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–19659 Filed 9–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0561; Product Identifier 2016–NM–141–AD; Amendment 39–19043; AD 2017–19–13]

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) 2001–16–01, which applied to certain Airbus Model A330–301, –321, –322, –341, and –342 airplanes, and certain Model A340 series airplanes; and AD 2014–17–06, which applied to all Airbus Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes. AD 2001–16–01 required inspections for cracking of the aft cargo compartment door, and corrective action if necessary. AD 2014–17–06 required revising the maintenance or inspection program, as applicable, to incorporate structural inspection requirements. This AD requires revising the maintenance or inspection program, as applicable, to incorporate new or revised airworthiness limitation requirements; and removing airplanes from the applicability. This AD was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 25, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 25, 2017.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of October 8, 2014 (79 FR 52181, September 3, 2014).

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 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–2017–0561.

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–2017–0561; 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: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2001–16–01, Amendment 39–12369 (66 FR 40874, August 6, 2001) (''AD 2001–16–01''), which applied to certain Airbus Model A330–301, –321, –322, –341, and –342 airplanes, and certain Model A340 series airplane; and AD 2014–17–06, Amendment 39–17959 (79 FR 52181, September 3, 2014) (''AD 2014–17–06''), which applied to all Airbus Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes. AD 2014–17–06 superseded AD 2011–17–08, Amendment 39–16772 (76 FR 53303, August 26, 2011). The NPRM published in the **Federal Register** on June 20, 2017 (82 FR 28020). The NPRM was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new or revised airworthiness limitation requirements; and to remove airplanes from the applicability. We are issuing this AD to detect and correct fatigue cracking, damage, and corrosion in a certain structure, which could result in 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 Airworthiness Directive 2016–0152, dated July 27, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A330–200 Freighter, –200, and –300 series airplanes; and Model A340–200, –300, –500, and –600 series airplanes. The MCAI states:

> The airworthiness limitations are currently defined and published in the Airbus A330 and A340 Airworthiness Limitations Section (ALS) documents.
>
> The airworthiness limitations applicable to the Damage Tolerant Airworthiness Limitation Items (DT–ALI), which are approved by EASA, are specified in Airbus A330 and A340 ALS Part 2. Failure to comply with these instructions could result in an unsafe condition [fatigue cracking, damage, and corrosion in a certain structure, which could result in reduced structural integrity of the airplane].
>
> EASA issued AD 2012–0211 (for A330 aeroplanes) [which corresponds to FAA AD 2014–17–06] and AD 2013–0127 (for A340 aeroplanes) [which corresponds to FAA AD 2001–16–01] to require the actions as specified in Airbus A330 and A340 ALS Part 2 at original issue and Revision 01, respectively.
>
> Since those [EASA] ADs were issued, Airbus issued Revision 01 and Revision 02, respectively, of Airbus A330 and A340 ALS Part 2, to introduce more restrictive maintenance requirements and/or airworthiness limitations.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2012–0211 and AD 2013–0127, which are superseded, and requires accomplishment of the actions specified in Airbus A330 ALS Part 2 Revision 01 including Variation 1.1 and Variation 1.2, or A340 ALS Part 2 Revision 02 including Variation 2.1 and Variation 2.2, as applicable (hereafter collectively referred to as 'the applicable ALS' in this [EASA] AD).
>
> In addition, this [EASA] AD also supersedes DGAC [Direction Générale de l'Aviation Civile] France AD 2001–126(B), whose requirements applicable to A330 aeroplanes have been transferred into Airbus A330 ALS Part 2, and supersedes DGAC France AD 2001–124(B), EASA AD 2012–0031 and AD 2012–0167, whose requirements applicable to A340 aeroplanes have been transferred into Airbus A340 ALS Part 2 [EASA ADs 2001–124(B) and 2001–126(B) correspond with FAA AD 2001–16–01].

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–2017–0561.

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 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 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, which describes airworthiness limitation requirements for damage-tolerant airworthiness limitation items. These documents are distinct since they provide different limitation requirements.

- Airbus A330 ALS Part 2, DT–ALI, Revision 01, issue 02, dated November 30, 2015.
- Airbus A330 ALS Part 2, DT–ALI, Variation 1.1, dated December 15, 2015.
- Airbus A330 ALS Part 2, DT–ALI, Variation 1.2, dated May 27, 2016.

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 101 airplanes of U.S. registry.

The actions required by AD 2014–17–06, and retained in this AD, take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the actions that were required by AD 2014–17–06 is $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $8,585, or $85 per product.

Authority for This Rulemaking

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

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

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:

■ a. Removing Airworthiness Directives (AD) 2001–16–01, Amendment 39–12369 (66 FR 40874, August 6, 2001); and AD 2014–17–06, Amendment 39–17959 (79 FR 52181, September 3, 2014); and

■ b. Adding the following new AD:

2017–19–13 Airbus: Amendment 39–19043; Docket No. FAA–2017–0561; Product Identifier 2016–NM–141–AD.

(a) Effective Date

This AD is effective October 25, 2017.

(b) Affected ADs

This AD replaces AD 2001–16–01, Amendment 39–12369 (66 FR 40874, August 6, 2001) (''AD 2001–16–01''); and AD 2014–17–06, Amendment 39–17959 (79 FR 52181, September 3, 2014) (''AD 2014–17–06'').

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before May 27, 2016.

(1) Airbus Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Airbus Model A330–223F and –243F airplanes.

(3) Airbus Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. We are issuing this AD to detect and correct fatigue cracking, damage, and corrosion in a certain structure, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Requirement: Maintenance or Inspection Program Revision, With a New Terminating Action

This paragraph restates the requirements of paragraph (i) of AD 2014–17–06, with a new terminating action. Accomplishing the revision required by paragraph (j) of this AD terminates the requirements of this paragraph.

(1) Within 3 months after October 8, 2014 (the effective date of AD 2014–17–06): Revise the maintenance or inspection program, as applicable, by incorporating Airbus Document AI/SE–M4/95A.0089/97, ''A330 Airworthiness Limitation Items,'' Issue 19, dated March 23, 2012; ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation reference 0GVLG120018/C0S, dated October 24, 2012; and ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation reference 0GVLG130002/C01, dated March 26, 2013.

(2) Comply with all applicable instructions and airworthiness limitations included in Airbus Document AI/SE M4/95A.0089/97, ''A330 Airworthiness Limitation Items,'' Issue 19, dated March 23, 2012; ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation reference 0GVLG120018/C0S, dated October 24, 2012; and ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation reference 0GVLG130002/C01, dated March 26, 2013. The initial compliance times for the actions specified in Airbus Document AI/SE–M4/95A.0089/97, ''A330 Airworthiness Limitation Items,'' Issue 19, dated March 23, 2012; ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation reference 0GVLG120018/C0S, dated October 24, 2012; and ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' 0GVLG130002/C01, dated March 26, 2013; are at the times specified in Airbus Document AI/SE–M4/95A.0089/97, ''A330 Airworthiness Limitation Items,'' Issue 19, dated March 23, 2012; ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation ref. 0GVLG120018/C0S, dated October 24, 2012; and ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation ref. 0GVLG130002/C01, dated March 26, 2013; or within 3 months after October 8, 2014 (the effective date of AD 2014–17–06), whichever occurs later.

(h) Retained Provision: Optional Compliance, With a New Terminating Action

This paragraph restates the provision in paragraph (j) of AD 2014–17–06, with a new terminating action. Compliance with tasks 533021–02–01, 533021–02–02, and 533021–02–03, specified in ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation ref. 0GVLG120022/C0S, dated December 21, 2012, may be used as a method of compliance to tasks 533021–01–01, 533021–01–02, 533021–01–03 specified in Section 2.2.1 and 2.2.2 of Section 2, ''Airworthiness Limitations,'' of Airbus Document AI/SE M4/95A.0089/97, ''A330 Airworthiness Limitation Items,'' Issue 19, dated March 23, 2012. Accomplishing the revision required by paragraph (j) of this AD terminates the provision specified in this paragraph.

(i) Retained Requirement: No Alternative Intervals or Limits, With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2014–17–06, with a new exception. Except as provided by paragraph (h) of this AD and as required by paragraph (j) of this AD, after the maintenance or inspection program, as applicable, has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) under the provisions of paragraph (l)(1) of this AD.

(j) New Requirement: Maintenance or Inspection Program Revision

Within 3 months after the effective date of this AD: Revise the maintenance or inspection program, as applicable, by incorporating the service information specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD. The initial compliance times for the actions specified in the service information referenced in paragraphs (j)(1), (j)(2), and (j)(3) of this AD are the times specified in the applicable service information, or within 3 months after the effective date of this AD, whichever occurs later. Accomplishing the revision specified in this paragraph terminates the requirements of paragraph (g) of this AD and the provision specified in paragraph (h) of this AD.

(1) Airbus A330 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 01, issue 02, dated November 30, 2015.

(2) Airbus A330 ALS Part 2, DT–ALI, Variation 1.1, dated December 15, 2015.

(3) Airbus A330 ALS Part 2, DT–ALI, Variation 1.2, dated May 27, 2016.

(k) New Requirement: No Alternative Actions or Intervals

After the maintenance or inspection program, as applicable, has been revised, as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (l)(1) of 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 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.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0152, dated July 27, 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–2017–0561.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

(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.

(3) The following service information was approved for IBR on October 25, 2017.

(i) Airbus A330 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 01, issue 02, dated November 30, 2015.

(ii) Airbus A330 ALS Part 2, DT–ALI, Variation 1.1, dated December 15, 2015.

(iii) Airbus A330 ALS Part 2, DT–ALI, Variation 1.2, dated May 27, 2016.

(4) The following service information was approved for IBR on October 8, 2014 (79 FR 52181, September 3, 2014).

(i) Airbus Document AI/SE–M4/95A.0089/97, ''A330 Airworthiness Limitation Items,'' Issue 19, dated March 23, 2012.

(ii) Airbus ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation ref. 0GVLG130002/C01, dated March 26, 2013.

(iii) Airbus ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation ref. 0GVLG120018/C0S, dated October 24, 2012.

(iv) Airbus ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT–ALI),'' variation ref. 0GVLG120022/C0S, dated December 21, 2012.

(5) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on September 7, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–19656 Filed 9–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31156; Amdt. No. 535]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: Effective 0901 UTC, October 12, 2017.

FOR FURTHER INFORMATION CONTACT: Thomas J Nichols, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on September 8, 2017.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, October 12, 2017.

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 535 Effective Date, October 12, 2017]

From	To	MEA	MAA
§ 95.4000 High Altitude RNAV Routes **§ 95.4039 RNAV Route Q39**			
Is Amended By Adding			
CLAWD, NC WP *18000–GNSS MEA *DME/DME/IRU MEA	TARCI, WV FIX	*18000	45000
TARCI, WV FIX *18000–GNSS MEA *DME/DME/IRU MEA	ASERY, WV WP	*18000	45000

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 535 Effective Date, October 12, 2017]

From	To	MEA	MAA
Is Amended to Delete			
CLAWD, NC WP *18000–GNSS MEA *DME/DME/IRU MEA	WISTA, WV WP	*18000	45000
§ 95.4067 RNAV Route Q67			
Is Amended by Adding			
JONEN, KY WP *18000–GNSS MEA *DME/DME/IRU MEA	DARYN, WV WP	*18000	45000
Is Amended to Delete			
JONEN, KY WP *18000–GNSS MEA *DME/DME/IRU MEA	COLTZ, OH FIX	*18000	45000

From	To	MEA
§ 95.6001 Victor Routes–U.S **§ 95.6006 VOR Federal Airway V6 Is Amended to Read in Part**		
IOWA CITY, IA VOR/DME	DAVENPORT, IA VORTAC	2700
§ 95.6007 VOR Federal Airway V7 Is Amended to Delete		
MUSCLE SHOALS, AL VORTAC	GILLE, AL FIX	2500
GILLE, AL FIX *2400–MOCA	GRAHAM, TN VORTAC	*3000
GRAHAM, TN VORTAC	VALER, TN FIX	3000
VALER, TN FIX *2200–MOCA	CENTRAL CITY, KY VORTAC	*3000
§ 95.6028 VOR Federal Airway V28 Is Amended to Read in Part		
HAIRE, CA FIX *4000–MCA **2100–MOCA	*LINDEN, CA VOR/DME LINDEN, CA VOR/DME, NE BND	**3000
SPOOK, CA FIX *12000–MOCA	RICHY, CA FIX	*15000
§ 95.6059 VOR Federal Airway V59 Is Amended to Read in Part		
WARDO, WV FIX *3500–MRA	*EDSOE, WV FIX	3000
*EDSOE, WV FIX *3500–MRA	PARKERSBURG, WV VORTAC	3000
§ 95.6067 VOR Federal Airway V67 Is Amended to Delete		
SHELBYVILLE, TN VOR/DME *2500–MOCA	GRAHAM, TN VORTAC	*4000
GRAHAM, TN VORTAC *2200–MOCA	LANKY, TN FIX	*4000
LANKY, TN FIX *2200–MOCA	CUNNINGHAM, KY VOR/DME	*3000
§ 95.6088 VOR Federal Airway V88 Is Amended to Read in Part		
WACCO, MO FIX *3700–MCA **3000–MOCA	*QUALM, MO FIX QUALM, MO FIX, W BND	**3700
§ 95.6113 VOR Federal Airway V113 Is Amended to Read in Part		
MODESTO, CA VOR/DME *4000–MCA	*LINDEN, CA VOR/DME LINDEN, CA VOR/DME, NE BND	2000
KATSO, CA FIX *15000–MCA **12100–MOCA *12000–MOCA	*SPOOK, CA FIX SPOOK, CA FIX, N BND SPOOK, CA FIX; RICHY, CA FIX	**13000 *15000

From	To	MEA
§ 95.6115 VOR Federal Airway V115 Is Amended to Read in Part		
CHARLESTON, WV VORTAC	PARKERSBURG, WV VORTAC	3000
§ 95.6119 VOR Federal Airway V119 Is Amended to Read in Part		
HENDERSON, WV VORTAC *3800–MRA	*JACEE, WV FIX	2700
§ 95.6190 VOR Federal Airway V190 Is Amended to Read in Part		
WACCO, MO FIX *3700–MCA **3000–MOCA	QUALM, MO FIX QUALM, MO FIX, W BND	**3700
§ 95.6195 VOR Federal Airway V195 Is Amended to Read in Part		
*TOMAD, CA FIX *7000–MRA **7700–MCA **8300–MOCA	**YAGER, CA FIX YAGER, CA FIX, E BND	***11000
§ 95.6216 VOR Federal Airway V216 Is Amended to Read in Part		
IOWA CITY, IA VOR/DME *2600–MOCA	LOTTE, IA FIX	*3500
§ 95.6513 VOR Federal Airway V513 Is Amended to Read in Part		
NEW HOPE, KY VOR/DME	LOUISVILLE, KY VORTAC	2700

[FR Doc. 2017–19950 Filed 9–19–17; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

[Docket Number: 151222999–7734–03]

RIN 0607–AA55

Foreign Trade Regulations (FTR): Clarification on Filing Requirements; Correction

AGENCY: Bureau of the Census, Commerce Department.

ACTION: Correcting amendments.

SUMMARY: On April 19, 2017, the Census Bureau revised the Foreign Trade Regulations (FTR). The revisions to the FTR reflected the implementation of the International Trade Data System, in accordance with the Executive Order 13659, Streamlining the Export/Import Process for American Businesses. In the Final Rule, the Census Bureau also amended the appendices section. Appendices B, C, E, and F were removed and appendix D was revised and redesignated as the new appendix B. With the revisions to the appendices section, there are a few sections of the FTR that were inadvertently not updated to reflect these changes. This document corrects the final regulations.

DATES: Effective on September 20, 2017.

FOR FURTHER INFORMATION CONTACT: Dale C. Kelly, Chief, International Trade Management Division, U.S. Census Bureau, Washington, DC 20233–6010, by phone: (301) 763–6937, by fax: (301) 763–8835, or by email: *dale.c.kelly@census.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Census Bureau is responsible for collecting, compiling, and publishing trade statistics for the United States under the provisions of Title 13 of the United States Code (U.S.C.), Chapter 9, Section 301. The Census Bureau published a Final Rule in the **Federal Register** (82 FR 18383, April 19, 2017) that revised the Foreign Trade Regulations (FTR) to reflect new export reporting requirements. In the Final Rule the Census Bureau amended the appendices section. Appendices B, C, E, and F were removed and appendix D was revised and redesignated as the new appendix B. With the revisions to the appendices section, there are a few sections of the FTR that were inadvertently not updated to reflect the changes to the appendices.

Program Requirements

To comply with the requirements of the Foreign Relations Act, Public Law 107–228, the Census Bureau is amending relevant sections of the FTR to revise or clarify export reporting requirements. Therefore, the Census Bureau is correcting 15 CFR part 30 by making the following correcting amendments:

- Revise § 30.1(c) to replace the reference to appendix D with appendix B in the definition of ''Exemption legend'' because appendix D is redesignated as appendix B.
- Revise § 30.1(c) to replace the reference to appendix D with appendix B in the definition of ''Postdeparture filing citation'' because appendix D is redesignated as appendix B.
- Revise § 30.3(e)(2)(xi) to replace ''Foreign port of unloading'' with ''Foreign port of unlading.''
- Revise § 30.4(b)(3) to replace ''Foreign port of unloading'' with ''Foreign port of unlading.''
- Revise § 30.4(b)(4)(ii)(A) to replace the reference to appendix D with appendix B because appendix D is redesignated as appendix B.
- Revise § 30.6(a)(18) to remove the reference to appendix B because this appendix is removed from the FTR.
- Revise § 30.7(b) to replace the reference to appendix D with appendix B because appendix D is redesignated as appendix B.
- Revise § 30.8 introductory text to replace the reference to appendix D with appendix B because appendix D is redesignated as appendix B.

• Revise § 30.8(b) to replace the reference to § 30.46 with § 30.4(c)(2) for requirements for the filing of export information by pipeline carriers.
• Revise § 30.35 to replace the reference to appendix D with appendix B because appendix D is redesignated as appendix B.
• Revise appendix B, IX to replace the reference to § 30.40(d) with § 30.40(c).

List of Subjects in 15 CFR Part 30

Economic statistics, Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, 15 CFR part 30 is corrected by making the following correcting amendments:

PART 30—FOREIGN TRADE REGULATIONS

■ 1. The authority citation for part 30 continues to read as follows:

Authority: 5 U.S.C. 301; 13 U.S.C. 301–307; Reorganization plan No. 5 of 1990 (3 CFR 1949–1953 Comp., p. 1004); Department of Commerce Organization Order No. 35–2A, July 22, 1987, as amended, and No. 35–2B, December 20, 1996, as amended; Pub. L. 107–228, 116 Stat. 1350.

■ 2. Amend § 30.1(c) by revising the definitions for ''Exemption legend'' and ''Postdeparture filing citation'' to read as follows:

§ 30.1 Purpose and definitions.

* * * * *

(c) * * *

Exemption legend. A notation placed on the bill of lading, air waybill, export shipping instructions, or other commercial loading document that describes the basis for not filing EEI for an export transaction. The exemption legend shall reference the number of the section or provision in the FTR where the particular exemption is provided (See appendix B to this part).

* * * * *

Postdeparture filing citation. A notation placed on the bill of lading, air waybill, export shipping instructions, or other commercial loading documents that states that the EEI will be filed after departure of the carrier. (See appendix B of this part.)

* * * * *

■ 3. Amend § 30.3 by revising paragraph (e)(2)(xi) to read as follows:

§ 30.3 Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.

* * * * *

(e) * * *

(2) * * *

(xi) Foreign port of unlading.

* * * * *

■ 4. Amend § 30.4 by revising paragraphs (b)(3) and (b)(4)(ii)(A) to read as follows:

§ 30.4 Electronic Export Information filing procedures, deadlines, and certification statements.

* * * * *

(b) * * *

(3) For shipments between the United States and Puerto Rico, the USPPI or authorized agent shall provide the proof of filing citation, postdeparture filing citation, AES downtime filing citation, exemption or exclusion legend to the exporting carrier by the time the shipment arrives at the port of unlading.

(4) * * *

(ii) * * *

(A) Provide the appropriate downtime filing citation as described in § 30.7(b) and appendix B of this part; and

* * * * *

■ 5. Amend § 30.6 by revising paragraph (a)(18) to read as follows:

§ 30.6 Electronic Export Information data elements.

* * * * *

(a) * * *

(18) *Export information code.* A code that identifies the type of export shipment or condition of the exported items (*e.g.,* goods donated for relief or charity, impelled shipments, shipments under the Foreign Military Sales program, household goods, and all other shipments).

* * * * *

■ 6. Amend § 30.7 by revising paragraphs (b) to read as follows:

§ 30.7 Annotating the bill of lading, air waybill, or other commercial loading documents with proof of filing citations, and exemption legends.

(a) * * *

(b) For shipments other than USML, the USPPI or the authorized agent is responsible for annotating the proper proof of filing citation or exemption legend on the first page of the bill of lading, air waybill, export shipping instructions or other commercial loading documents. The USPPI or the authorized agent must provide the proof of filing citation or exemption legend to the exporting carrier. The carrier must annotate the proof of filing citation, exemption or exclusion legends on the carrier's outbound manifest when required. The carrier is responsible for presenting the appropriate proof of filing citation or exemption legend to CBP Port Director at the port of export as stated in subpart E of this part. Such presentation shall be without material change or amendment of the proof of filing citation, postdeparture filing citation, AES downtime filing citation, or exemption legend as provided to the carrier by the USPPI or the authorized agent. The proof of filing citation will identify that the export information has been accepted as transmitted. The postdeparture filing citation, AES downtime filing citation, or exemption legend will identify that no filing is required prior to export. The proof of filing citations, postdeparture filing citations, or exemption legends shall appear on the bill of lading, air waybill or other commercial loading documentation and shall be clearly visible. The AES filing citation, exemption or exclusion legends are provided for in appendix B of this part. The exporting carrier shall annotate the manifest or other carrier documentation with the AES filing citations, exemption or exclusions legends.

* * * * *

■ 7. Amend § 30.8 by revising the introductory text and paragraph (b) to read as follows:

§ 30.8 Time and place for presenting proof of filing citations and exemption legends.

The following conditions govern the time and place to present proof of filing citations, postdeparture filing citations, AES downtime filing citation, exemption, or exclusion legends. The USPPI or the authorized agent is required to deliver the proof of filing citations, postdeparture filing citations, AES downtime filing citations, exemption, or exclusion legends required in § 30.7 to the exporting carrier. See appendix B of this part for the properly formatted proof of filing citations, exemption, or exclusion legends. Failure of the USPPI or the authorized agent of either the USPPI or FPPI to comply with these requirements constitutes a violation of the regulations in this part and renders such principal party or the authorized agent subject to the penalties provided for in subpart H of this part.

* * * * *

(b) *Pipeline exports.* The proof of filing citations or exemption and exclusion legends for items being sent by pipeline shall be presented to the operator of a pipeline no later than four calendar days after the close of the month. See § 30.4(c)(2) for requirements for the filing of export information by pipeline carriers.

* * * * *

■ 8. Revise § 30.35 to read as follows:

§ 30.35 Procedure for shipments exempt from filing requirements.

Except as noted in § 30.2(a)(1)(iv), where an exemption from the filing

requirement is provided in this subpart, a legend describing the basis for the exemption shall be made on the first page of the bill of lading, air waybill, or other commercial loading document, and on the carrier's outbound manifest. The exemption legend shall reference the number of the section or provision in this part where the particular exemption is provided (see appendix B of this part).

■ 9. Revise appendix B to read as follows:

Appendix B to Part 30—AES Filing Citation, Exemption and Exclusion Legends

I. Proof of Filing Citation	AES ITN Example: AES X20170101987654
II. Postdeparture Citation—USPPI, USPPI is filing the EEI	AESPOST USPPI EIN Date of Export (mm/dd/yyyy) Example: AESPOST 12345678912 01/01/2017
III. Postdeparture Citation—Agent, Agent is filing the EEI	AESPOST USPPI EIN—Filer ID Date of Export (mm/dd/yyyy) Example: AESPOST 12345678912—987654321 01/01/2017
IV. AES downtime Filing Citation—Use only when AES or AES Direct is unavailable.	AESDOWN Filer ID Date of Export (mm/dd/yyyy) Example: AESDOWN 123456789 01/01/2017
V. Exemption for Shipments to Canada	NOEEI § 30.36
VI. Exemption for Low-Value Shipments	NOEEI § 30.37(a)
VII. Miscellaneous Exemption Statements are found in 15 CFR part 30, subpart D, § 30.37(b) through (y).	NOEEI § 30.37 (site corresponding alphabet)
VIII. Special Exemption for Shipments to the U.S. Armed Forces	NOEEI § 30.39
IX. Special Exemptions for Certain Shipments to U.S. Government Agencies and Employees (Exemption Statements are found in 15 CFR part 30, subpart D, § 30.40(a) through (c).	NOEEI § 30.40 (site corresponding alphabet)
X. Split Shipments Split Shipments should be referenced as such on the manifest in accordance with provisions contained in § 30.28, Split Shipments. The notation should be easily identifiable on the manifest. It is preferable to include a reference to a split shipment in the exemption statements cited in the example, the notation SS should be included at the end of the appropriate exemption statement.	AES ITN SS Example: AES X20170101987654 SS

Dated: September 14, 2017.

Ron S. Jarmin,

Associate Director for Economic Programs, performing the non-exclusive functions and duties of the Director, Bureau of the Census.

[FR Doc. 2017–20060 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

15 CFR Part 2301

[Docket No. 170627596–7803–02]

RIN 0660–AA34

Repeal of Regulations Governing the Public Telecommunications Facilities Program

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The National Telecommunications and Information Administration (NTIA) is repealing its regulations governing the Public Telecommunications Facilities Program (PTFP). The PTFP was a competitive grant program that helped public broadcasting stations, state and local governments, Indian Tribes, and nonprofit organizations to construct public television and radio stations. As of Fiscal Year 2011, no funds have been available for PTFP grants. NTIA is repealing its regulations governing the PTFP because the regulations are unnecessary and obsolete.

DATES: This rule becomes effective on September 20, 2017.

FOR FURTHER INFORMATION CONTACT: Milton Brown, Deputy Chief Counsel, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4713, Washington, DC 20230; telephone: (202) 482–1816; facsimile: (202) 501–8013; or email: *mbrown@ntia.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The PTFP was a competitive grant program that supports the planning and construction of public telecommunications facilities.[1] The program helped public broadcasting stations, state and local governments, Indian Tribes, and nonprofit organizations to construct public television and radio stations. On November 8, 1996, NTIA issued a final rule entitled, ''Public Telecommunications Facilities Program,'' to carry out its statutory responsibility to administer the PTFP.[2] The regulations outlined the PTFP grant application requirements, the evaluation and selection process, post-award requirements, and the completion of PTFP grant projects. Between Fiscal Years 1994 and 2010, NTIA awarded between $14 and $42 million each year in PTFP grant awards to assist radio, television, digital television including digital conversion projects, and distance learning.

For the past seven years, no funds have been available for PTFP grants. In 2010, the Department of Commerce found that the majority of PTFP grants had assisted digital television conversion projects which had concluded, and that support for public broadcasters was available from other sources.[3] For these reasons, the Department of Commerce identified the PTFP as ''outdated, ineffective, or duplicative.''[4] Accordingly, Congress appropriated no funds for PTFP in Fiscal Year 2011.[5]

[1] The PTFP is authorized under the Public Telecommunications Financing Act of 1978, as amended, 47 U.S.C. 390–393, 397–399b.

[2] 61 FR 57966 (Nov. 8, 1996). (The rules were codified at 47 CFR part 2301).

[3] *See* Commerce, Justice, Science, and Related Agencies Appropriations for Fiscal Year 2011: Hearing before the Subcommittee on Commerce, Justice, Science, and Related Agencies of the Senate Committee on Appropriations, 111th Cong. 12, 22 (Mar. 4, 2010).

[4] *Id.* at 12.

[5] *See* Department of Defense and Full-Year Continuing Appropriations Act of 2011, Pub. L. 112–10, sec. 1320 (Apr. 15, 2011) (''Notwithstanding section 1101, the level of the following accounts shall be $0: 'Department of Commerce, National Telecommunications and Information Administration, Public Telecommunications Facilities Planning and

As a result of the lack of funding, NTIA began the orderly shutdown of the PTFP thereafter. NTIA has not processed applications or awarded any additional grants under the PTFP since that time. NTIA has continued to monitor PTFP grants it awarded before Fiscal Year 2011 to ensure taxpayer funds have been utilized in the most responsible and efficient manner.

II. Comments

On July 18, 2017, NTIA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** seeking comment on its proposed repeal of regulations governing the PTFP. NTIA did not receive any comments in response to the NPRM.

III. Repeal of Regulations for the Public Telecommunications Facilities Program

Congress authorized NTIA to establish regulations ''as may be necessary to carry out'' the PTFP.[6] Due to the lack of funding for seven years and no prospective funding for the PTFP, the regulations governing the PTFP are unnecessary and obsolete. If these regulations are not removed, it may suggest that the program is still active and may cause confusion regarding the status of the program. Accordingly, NTIA is repealing its regulations governing the PTFP.

Administrative Procedure Act

The Final Rule relates solely to the repeal of grant program processes, and, as such, is not subject to the requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2).

Congressional Review Act

It has been determined that this final rule is not major under 5 U.S.C. 801 *et seq.*

Executive Order 12866

The repeal of the regulations governing the PTFP is not a significant regulatory action as defined by Executive Order 12866.

Executive Order 13132

The repeal of the regulations governing the PTFP does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the repeal of regulations governing the PTFP would not have a significant impact on a substantial number of small entities in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)). NTIA received no comments on the certification, which remains unchanged.

Paperwork Reduction Act

The repeal of the regulations governing the PTFP contains no collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 is not required. In 2013, OMB approved NTIA's requests to discontinue the following collections associated with the regulations governing the PTFP: OMB Control Numbers 0660–0003, 0660–0001, and 0605–0001; consequently, NTIA has no active collections associated with its regulations governing the PTFP.

Lists of Subjects in 15 CFR Part 2301

Administrative procedure, Grant programs-communications, Reporting and recordkeeping requirements, Telecommunications.

■ For the reasons stated above, and under the authority of 47 U.S.C. 390–393 and 397–399b, NTIA is removing and reserving 15 CFR part 2301.

PART 2301—[REMOVED AND RESERVED]

Dated: September 15, 2017.

Leonard Bechtel,

Director of Administration and Chief Financial Officer, performing the non-exclusive duties of the Assistant Secretary for Communications and Information, National Telecommunications and Information Administration.

[FR Doc. 2017–20012 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–60–P

Construction' '). In the 2014 appropriation, Congress rescinded $8.5 million from the NTIA PTFP account. Consolidated Appropriations Act, 2014, Pub. L. 113–76, sec. 524(a) (Jan. 17, 2014) (''Of the unobligated balances available for 'Department of Commerce, National Telecommunications and Information Administration, Public Telecommunications Facilities, Planning and Construction,' $8,500,000 is hereby rescinded'').

[6] 47 U.S.C. 392(e).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2016–C–2570]

Listing of Color Additives Exempt From Certification; Spirulina Extract; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA or we) is confirming the effective date of August 3, 2017, for the final rule that appeared in the **Federal Register** of July 3, 2017, and that amended the color additive regulations to provide for the expanded safe use of spirulina extract to seasonally color hard-boiled shell eggs at levels consistent with good manufacturing practice.

DATES: Effective date of final rule published in the **Federal Register** of July 3, 2017 (82 FR 30731), confirmed: August 3, 2017.

FOR FURTHER INFORMATION CONTACT: Molly A. Harry, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1075.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 3, 2017 (82 FR 30731), we amended the color additive regulations in § 73.530 Spirulina extract (21 CFR 73.530) to provide for the expanded safe use of spirulina extract to seasonally color the shells of hard-boiled eggs.

We gave interested persons until August 2, 2017, to file objections or requests for a hearing. We received no objections or requests for a hearing on the final rule. Therefore, we find that the effective date of the final rule that published in the **Federal Register** of July 3, 2017, should be confirmed.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e) and under authority delegated to the Commissioner of Food and Drugs, we are giving notice that no objections or requests for a hearing were filed in response to the July 3, 2017, final rule. Accordingly, the amendments issued thereby became effective August 3, 2017.

Dated: September 14, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–20050 Filed 9–19–17; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0208; FRL–9967–93–Region 7]

Approval of Implementation Plans; State of Iowa; Elements of the Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standard (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve elements of a State Implementation Plan (SIP) submission, and an amended SIP submission from the State of Iowa for the 2010 Nitrogen Dioxide (NO_2) National Ambient Air Quality Standard (NAAQS).

Infrastructure SIPs address the applicable requirements of Clean Air Act (CAA) section 110, which requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by the EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: This direct final rule will be effective November 20, 2017, without further notice, unless EPA receives adverse comment by October 20, 2017. If EPA receives adverse comment, we 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–R07–OAR–2017–0208, to *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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: Heather Hamilton, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219 at (913) 551–7039, or by email at *hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. What is being addressed in this document?

EPA is approving elements of the 2010 NO_2 NAAQS infrastructure SIP submission from the State of Iowa received on July 29, 2013, and an amended SIP submission received on March 9, 2017. Specifically, EPA is approving the following elements of section 110(a)(2): (A), (B), (C), (D)(i)(I)—significant contribution to nonattainment (prong 1), interfering with maintenance of the NAAQS (prong 2) and (D)(i)(II)—prevent of significant deterioration of air quality (prong 3), and (D)(ii), (E) through (H), and (J) through (M). EPA is not acting on the elements of section 110(a)(2)(D)(i)(II)—protection of visibility (prong 4), and 110(a)(2)(I).

A Technical Support Document (TSD) is included as part of this docket to discuss the details of this action, including analysis of how the SIP meets the applicable 110 requirements for infrastructure SIPs.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The state initiated public comment from April 6, 2013, to May 8, 2013. One comment was received and adequately addressed in the final SIP submission. The amended submission was placed on public comment January 12, 2017, to February 15, 2017. No comments were received. These submissions also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this docket, the revisions meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is EPA taking?

EPA is approving elements of the July 23, 2013, (received July 29, 2013) infrastructure SIP submission from the State of Iowa, which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2010 NO_2 NAAQS. As stated above, EPA is approving the following elements of section 110(a)(2): (A), (B), (C), (D)(i)(I)—significant contribution to nonattainment (prong 1), interfering with maintenance of the NAAQS (prong 2) and (D)(i)(II)—prevent significant deterioration of air quality (prong 3), and (D)(ii), (E) through (H), and (J) through (M). The March 1, 2017, SIP amendment, revised 110(a)(2)(D)(i)(I). Details of the submission are addressed in the TSD, included as part of the docket, to discuss this approval action.

EPA is not taking action on section 110(a)(2)(I). Section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas. EPA does not expect infrastructure SIP submissions to address element (I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. EPA will take action on part D attainment plan SIP submissions through a separate rulemaking governed by the requirements for nonattainment areas, as described in part D.

EPA is not taking action on section 110(a)(2)(D)(i)(II), prong 4.

We are publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP

revision if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

IV. Statutory and Executive Order Reviews

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 20, 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, Reporting and recordkeeping requirements.

Dated: September 8, 2017.

Cathy Stepp,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amending 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart Q—Iowa

■ 2. Section 52.820(e) is amended by adding new entry (47) in numerical order at the end of the table to read as follows:

§ 52.820 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED IOWA NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	* * *
(47) Sections 110(a)(1) and (2) Infrastructure Requirements 2010 Nitrogen Dioxide NAAQS.	Statewide	7/23/13, 3/1/17	9/20/2017, [Insert **Federal Register** citation].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(I) prongs 1 and 2, D(i)(II) prong 3 only, and D(ii), (E), (F), (G), (H), (J), (K), (L), and (M). 110(a)(2)(I) is not applicable. [EPA–R07–OAR–2017–0208; FRL–9967–93–Region 7].

[FR Doc. 2017–19935 Filed 9–19–17; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0477; FRL–9967–95–Region 7]

Approval of Nebraska Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide and Sulfur Dioxide and the 2012 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve elements of a State Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2010 Nitrogen Dioxide (NO_2) and Sulfur Dioxide (SO_2) National Ambient Air Quality Standards (NAAQS), and the 2012 Fine Particulate Matter ($PM_{2.5}$) NAAQS, which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: This direct final rule will be effective November 20, 2017, without further notice, unless EPA receives adverse comment by October 20, 2017. If EPA receives adverse comment, we 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–R07–OAR–2017–0477 to *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, 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: Mr. Gregory Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7391, or by email at *crable.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. What is being addressed in this document?

EPA is taking direct final action to approve the infrastructure submissions as meeting the submittal requirement section 110(a)(1). EPA is approving elements of the 2010 NO_2 and SO_2 infrastructure SIP submissions from the State of Nebraska received on February 7, 2013, and August 22, 2013, respectively. EPA is also taking action to approve the 2012 $PM_{2.5}$ infrastructure submittal received on February 22, 2016. Specifically, EPA is approving, in regard to the 2010 NO_2 NAAQS, the following elements of section 110(a)(2): (A) through (C), (D)(i)(I)—Prongs 1 and 2, (D)(i)(II)—prong 3, (D)(ii), (E) through (H), and (J) through (M).

In regard to the 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS, EPA is approving the following infrastructure elements of 110(a)(2): (A) through (C), (D)(i)(II)—Prong 3, (D)(ii), (E) through (H), and (J) through (M). As discussed in the TSD, EPA is not acting, at this time, on section 110(a)(2)(D)(i)(I)—prongs 1 and 2, as it relates to the 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS.

In regard to the 2010 NO_2 and SO_2 and the 2012 $PM_{2.5}$ infrastructure submittals and as explained in the TSD, EPA is not acting, at this time, on section (D)(i)(II)—prong 4. Finally, EPA is not acting on section 110(a)(2)(I) as it does not expect infrastructure SIP submissions to address element (I).

As noted, a Technical Support Document (TSD) is included as part of the docket to discuss the details of this action.

II. Have the requirements for approval of a SIP revision been met?

The state submissions have met the public notification requirements for SIP submissions in accordance with 40 CFR 51.102. A public comment period was held for the NO_2 infrastructure SIP from December 27, 2012 to January 28, 2013.

The only comments were from the EPA, and the infrastructure SIP submission was revised to address the comments. A public hearing was held on January 28, 2013.

The state held a public comment period for the SO_2 infrastructure SIP from April 25, 2013, to May 28, 2013. NDEQ received comments from the Sierra Club on May 28, 2013. The state addressed the Sierra Clubs comments with no revisions to its proposed SIP. A public hearing was held on May 27, 2013.

A public comment period was held for the $PM_{2.5}$ infrastructure SIP from November 23, 2015, to December 29, 2015. A public hearing was held on December 29, 2015. No comments were received.

All three submissions satisfied the completeness criteria of 40 CFR part 51, appendix V. As explained in more detail in the TSD, which is part of this docket, the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is EPA taking?

EPA is approving the infrastructure SIP submissions from Nebraska, which address the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2010 NO_2 and SO_2 and 2012 $PM_{2.5}$ NAAQS. As stated in the above preamble, EPA is approving elements of the state's submission as meeting requirements of section 110(a)(1) for all three submittals.

With regard to the 2010 NO_2 NAAQS, EPA is approving the following infrastructure elements of 110(a)(2): (A) through (C), (D)(i)(I)—Prongs 1 and 2, (D)(i)(II)—prong 3, (D)(ii), (E) through (H), and (J) through (M). As explained in the TSD, EPA intends to act on section (D)(i)(II)—prong 4, in a subsequent rulemaking.

EPA is approving the following infrastructure elements of 110(a)(2) as it relates to the 2010 SO_2 and the 2012 $PM_{2.5}$ NAAQS: (A) through (C),

(D)(i)(II)—Prong 3, (D) (ii), (E) through (H), and (J) through (M). As discussed in the TSD, EPA intends to act on section (D)(i)(II)—prong 4, in a subsequent rulemaking and is not acting, at this time, on section 110(a)(2)(D)(i)(I)—prongs 1 and 2, for both the 2010 SO_2 and 2012 $PM_{2.5}$ NAAQS.

Finally, EPA is taking no action with respect to section 110(a)(2)(I) for the 2010 NO_2 and SO_2 NAAQS, and the 2012 $PM_{2.5}$ NAAQS. Section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas. EPA does not expect infrastructure SIP submissions to address element (I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. EPA takes action on part D attainment plan SIP submissions through separate rulemaking governed by the requirements for nonattainment areas, as described in part D. EPA has not designated any area in the U.S. as nonattainment for the 2010 NO_2 NAAQS; EPA has designated all areas of Nebraska as ''attainment/unclassified'' with regards to the 2012 $PM_{2.5}$ NAAQS. Additionally, EPA has designated Lincoln and Otoe Counties as ''attainment/unclassified'' for the 2010 1-hr SO_2 NAAQS, but has not yet made a final determination for the rest of the Nebraska as it relates to the 2010 SO_2 NAAQS. Nebraska has no current CAA requirement to submit a plan to address section 110(a)(2)(I).

Based upon review of the state's infrastructure SIP submissions for the 2010 NO_2 and SO_2 NAAQS as well as the 2012 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submissions or referenced in Nebraska's SIP, EPA believes that Nebraska has the infrastructure to address all applicable required elements of sections 110(a)(1) and (2) (except otherwise noted) to ensure that the 2010 NO_2 and SO_2 NAAQS and the 2012 $PM_{2.5}$ NAAQS are implemented in the state.

We are publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to this action partionally approving elements of section 110(a)(2) for the 2010 NO_2 and SO_2 NAAQS and the 2012 $PM_{2.5}$ NAAQS, if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

IV. Statutory and Executive Order Reviews

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 20, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 8, 2017.

Cathy Stepp,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart CC—Nebraska

■ 2. Amend § 52.1420(e) by adding entries ''(32)'', ''(33)'' and ''(34)'' in numerical order to read as follows:

§ 52.1420 Identification of Plan.

* * * * *

(e) * * *

EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	* * *
(32) Section 110(a)(2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	Statewide	2/7/13	9/20/17, [Insert **Federal Register** citation].	[EPA–R07–OAR–2017–0477; FRL–9967–95-Region 7]. This action addresses the following CAA elements 110(a)(2) (A) through (C), (D) (i) (I)—Prongs 1 and 2, (D)(i)(II)—prong 3, (D)(ii), (E) through (H), and (J) through (M).
(33) Section 110(a)(2) Infrastructure Requirements for the 2010 SO_2 NAAQS.	Statewide	8/22/13	9/20/17, [Insert **Federal Register** citation].	[EPA–R07–OAR–2017–0477; FRL–9967–95-Region 7]. This action addresses the following CAA elements 110(a)(2) (A) through (C), (D) (i) (II)—Prong 3, (D) (ii), (E) through (H), and (J) through (M).
(34) Section 110(a)(2) Infrastructure Requirements for the 2010 $PM_{2.5}$ NAAQS.	Statewide	2/22/16	9/20/17, [Insert **Federal Register** citation].	[EPA–R07–OAR–2017–0477; FRL–9967–95-Region 7]. This action addresses the following CAA elements 110(a)(2) (A) through (C), (D) (i) (II)—Prong 3, (D) (ii), (E) through (H), and (J) through (M).

[FR Doc. 2017–19931 Filed 9–19–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0215; FRL–9967–45–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 the District's demonstration regarding Reasonably Available Control Technology (RACT) requirements for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) in the South Coast Air Basin and Coachella Valley ozone nonattainment areas.

DATES: This rule will be effective on October 20, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA–R09–OAR–2016–0215. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed on the Web site, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *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: Stanley Tong, EPA Region IX, (415) 947–4122, *tong.stanley@epa.gov.*

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

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I. Proposed Action

On June 15, 2017 (82 FR 27451), under section 110(k)(3) of the Clean Air Act (CAA or ''Act''), the EPA proposed to approve the ''2016 AQMP Reasonably Available Control Technology (RACT) Demonstration'' (''2016 AQMP RACT SIP''), submitted to the EPA by the California Air Resources Board (CARB) on July 18, 2014 [1] for approval as a revision to the California SIP, as supplemented by the public draft versions of the ''Supplemental RACM/RACT Analysis for the NO_X RECLAIM Program'' (''2017 RACT Supplement'') and two negative declarations submitted by CARB on May 22, 2017.[2] We had previously proposed a partial approval and partial disapproval of the 2016 Air

[1] The SCAQMD adopted its 2016 AQMP RACT SIP on June 4, 2014.

[2] CARB's May 22, 2017 submittal contained public draft versions of the 2017 RACT Supplement and negative declarations along with a request that the EPA provide parallel processing of the documents concurrently with the state's public process. See footnote 1 in our June 15, 2017 proposed rule. In our June 15, 2017 proposed rule, we erroneously described the 2017 RACT Supplement as including the two negative declarations. The 2017 RACT Supplement includes additional emissions analyses and two appendices that contain certain permit conditions for two specific stationary sources in Coachella Valley but does not include the negative declarations. The negative declarations were included in CARB's May 22, 2017 submittal but as a separate document.

Quality Management Plan (AQMP) RACT SIP,[3] but withdrew that proposal because we found that the 2017 RACT Supplement and recent amendments to certain District rules adequately addressed the deficiency that had been the basis for the earlier proposed partial disapproval. References herein to the ''proposed rule'' or ''proposed action'' refer to our proposed action published on June 15, 2017, unless otherwise stated.

Our proposed rule was based on our evaluation of the public draft versions of the 2017 RACT Supplement and negative declarations, and we indicated that we would not take final action until CARB submitted the final adopted versions to the EPA as a SIP revision. On July 7, 2017, the SCAQMD held a public hearing and approved the 2017 RACT Supplement and two negative declarations and submitted the approval package to CARB for adoption and submittal to the EPA. On July 26, 2017, the CARB Executive Officer adopted the 2017 RACT Supplement and negative declarations as a revision to the California SIP and, on July 27, 2017, submitted them to the EPA for approval, thereby satisfying the condition [4] for final EPA action.

The District prepared the 2017 RACT Supplement to address a deficiency that the EPA had identified in the 2016 AQMP RACT SIP and that was the basis for the EPA's proposed partial disapproval published on November 3, 2016 (81 FR 76547).[5] The final versions of the 2017 RACT Supplement (which includes additional analyses and certain permit conditions for two specific stationary sources in Coachella Valley) and negative declarations include non-substantive changes from the public draft versions that were the basis for our June 15, 2017 proposed rule. Lastly, CARB's July 27, 2017 SIP revision submittal includes documentation of the public process followed by the SCAQMD to approve the 2017 RACT Supplement and related negative declarations and documentation of the adoption by CARB of the 2017 RACT Supplement and negative declarations as revisions to the California SIP.

On August 7, 2017, we found the 2017 RACT Supplement including certain conditions from permits for two specific stationary sources located in Coachella Valley, and two negative declarations met the completeness criteria in 40 CFR part 51, appendix V.[6] Today, we take final action on the 2016 AQMP RACT SIP submitted on July 18, 2014 as supplemented by the 2017 RACT Supplement and negative declarations submitted on July 27, 2017.

In our proposed rule, we explained that CAA sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines [7] (CTG) document and for any major source of volatile organic compounds (VOC) or nitrogen oxides (NO_X).[8] The EPA's implementing regulations for the 2008 ozone NAAQS explain how these RACT requirements will be applied in areas classified as Moderate or above for the 2008 ozone NAAQS. *See* 40 CFR 51.1112.

We further explained that the areas under discussion here are subject to the RACT requirement as the South Coast Air Basin (''South Coast'') is classified as an Extreme nonattainment area and the Coachella Valley portion of Riverside County (''Coachella Valley'') is classified as a Severe-15 nonattainment area for the 2008 8-hour ozone NAAQS (40 CFR 81.305); 77 FR 30088 at 30101 and 30103 (May 21, 2012). SCAQMD implements the RACT requirements for South Coast and Coachella Valley because it is authorized under state law to regulate stationary sources in those areas. Therefore, the SCAQMD must, at a minimum, adopt requirements to achieve emissions reductions equivalent to RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOC or NO_X within the two nonattainment areas. Any stationary source that emits or has the potential to emit at least 10 tons per year of VOC or NO_X is a major stationary source in an extreme ozone nonattainment area (CAA section 182(e) and (f)), and any stationary source that emits or has the potential to emit at least 25 tons per year of VOC or NO_X is a major stationary source in a severe ozone nonattainment area (CAA section 182(d) and (f)).

In our proposed rule, we evaluated the 2016 AQMP RACT Demonstration, 2017 RACT Supplement and negative declarations in light of the above requirements and concluded that, collectively, they meet the RACT requirements of CAA sections 182(b)(2) and (f) and 40 CFR 51.1112 for the South Coast and Coachella Valley nonattainment areas for the 2008 ozone standard. In this document, we provide a summary of our evaluation. For a more detailed discussion, please see the proposed rule at 82 FR 27451, pages 27453 through 27455.

First, based on our review of the documentation provided by the SCAQMD in the 2016 AQMP RACT SIP and the negative declarations, we agreed that existing District rules approved in the SIP meet or are more stringent than the corresponding CTG limits and applicability thresholds for each category of VOC sources covered by a CTG document or are covered by negative declarations for which we were proposing approval. In this action, we affirm the finding we made in the proposed rule with respect to the CTG portion of the RACT requirement and approve the two negative declarations as a revision to the California SIP.

Next, with respect to major stationary sources of VOC or NO_X emissions, we divided the evaluation into three parts: major non-CTG VOC and NO_X stationary sources that are subject to District's command-and-control VOC and NO_X rules, major sources located in the South Coast that are subject to the District's cap-and-trade program referred to as the Regional Clean Air Incentives Market (''RECLAIM'') program, and major sources located in Coachella Valley that are subject to RECLAIM.

With respect to the first part of the evaluation of RACT for major sources, we reviewed the information provided by the District regarding new major Title V sources receiving permits since the District's previous RACT SIP approval and agreed with the District that the District's command-and-control VOC and NO_X rules approved in the SIP require implementation of RACT for all major non-CTG VOC and NO_X sources in the South Coast and Coachella Valley to which those rules apply. We affirm that finding in this final action.

In connection with the second part of the evaluation, we described RECLAIM as a program adopted by the District to reduce emissions from the largest stationary sources of NO_X and sulfur oxides (SO_X) emissions through a market-based trading program that

[3] *See* 81 FR 76547 (November 3, 2016).

[4] As explained in our June 15, 2017 proposed rulemaking, the EPA is following established procedures for parallel processing that allows us to approve a state provision so long as it was adopted as proposed with no significant changes.

[5] As noted above, we have withdrawn our November 3, 2016 proposed rule. See the summary section of our June 15, 2017 proposed rule at 82 FR 27451.

[6] As previously indicated in our June 15, 2017 proposed rulemaking, SCAQMD's 2016 AQMP RACT SIP was deemed complete by operation of law on January 18, 2015.

[7] CTGs provide the EPA's recommendations on how to control emissions of VOC from a specific type of product or process in an ozone nonattainment area. Each CTG includes emissions limitations based on RACT to address ozone nonattainment area requirements.

[8] VOC and NO_X together produce ground-level ozone, smog and particulate matter (PM), which harm human health and the environment.

establishes annual declining NO_X and SO_X allocations (also called ''facility caps'') and allows covered facilities to comply with their facility caps by installing pollution control equipment, changing operations, or purchasing RECLAIM trading credits (RTCs) from the RECLAIM market. We noted that section 40440 of the California Health and Safety Code (CH&SC) requires the District to monitor advances in best available retrofit control technology (BARCT) and periodically to reassess the overall facility caps to ensure that the facility caps are equivalent, in the aggregate, to BARCT emission levels imposed on affected sources; [9] that facilities subject to RECLAIM are exempted from a number of District command-and-control (also referred to as ''prohibitory'') rules that otherwise apply to sources of NO_X and SO_X emissions in the South Coast; [10] and that, with certain exceptions, facilities located outside of the South Coast but within SCAQMD jurisdiction (*e.g.,* facilities in Coachella Valley) are not included in the RECLAIM program.

Under longstanding EPA interpretation of the CAA, a market-based cap and trade program may satisfy RACT requirements by ensuring that the level of emission reductions resulting from implementation of the program will be equal, in the aggregate, to those reductions expected from the direct application of RACT on all affected sources within the nonattainment area,[11] and, consistent with our longstanding interpretation of the CAA, we approved the RECLAIM program in 1998 and then, as amended, in 2006 and 2011, based in part on the conclusion that RECLAIM continued to satisfy RACT requirements.[12] More recently, in the Agency's 2008 Ozone SIP Requirements Rule, 80 FR 12264, at 12278–12283 (March 6, 2015), the EPA re-affirmed its longstanding interpretation that a market-based cap and trade program may satisfy RACT requirements by ensuring equal aggregate reductions; and in this action, we are approving SIP revisions that rely in part on such a program to meet the RACT requirement because we find the program consistent with our 2008 Ozone SIP Requirements Rule.

As noted above, state law requires the District to monitor advances in BARCT and to periodically reassess the overall facility caps to ensure that RECLAIM facilities achieve the same or greater emission reductions that would have occurred under a command-and-control approach. In 2005, the District examined the RECLAIM program, found that additional reduction opportunities existed due to the advancement of control technology, and amended the RECLAIM rules (*i.e.,* District Regulation XX) to reduce the facility annual allocations (in the aggregate) for NO_X from 34.2 tons per day (tpd) to 26.5 tpd. In 2015, the District conducted another reevaluation and amended the RECLAIM rules to further reduce the NO_X allocations (in the aggregate) from 26.5 tpd to 14.5 tpd to be achieved through downward incremental adjustments from 2017 through 2022. At the time of our proposed rule, the EPA had only proposed to approve the RECLAIM rules that reflect the 2015 amendments reducing the aggregate facility allocations to 14.5 tpd of NO_X, but the Agency has since taken final action, and the RECLAIM rules, as amended in 2015, are now approved into the California SIP.[13]

In the 2017 RACT Supplement, the District provided a demonstration of how the RECLAIM program, as amended in 2015, meets the RACT requirement in the aggregate. To do so, the District re-examined the BARCT reevaluation that it conducted in 2015 and determined that, for certain source categories, the BARCT allocation level was essentially equivalent to RACT, but that, for certain other source categories, the BARCT allocation level was beyond RACT because there were no other rules in the District itself or any other California air district for these specific categories that were more stringent than the limits established under the RECLAIM program in effect prior to the 2015 amendments. The District then re-calculated hypothetical facility annual allocations (in the aggregate) reflecting RACT implementation (rather than BARCT) of 14.8 tpd. Because the facility annual allocations (in the aggregate) for NO_X adopted by the District in 2015 (implementing BARCT) of 14.5 tpd is less than (*i.e.,* more stringent than) the hypothetical allocations (implementing RACT) of 14.8 tpd, the District concluded that the program as amended in 2015 meets the RACT requirement.

In our proposed rule, based on our review of the District's approach, assumptions, and methods to the updated RECLAIM program, we agreed that, as amended in 2015, the RECLAIM program provides for emissions reductions greater, in the aggregate, to those reductions expected from the direct application of RACT on all major NO_X sources in the South Coast and thereby meets the RACT requirement for such sources for the purposes of the 2008 ozone standard.[14] We affirm that finding in this final action and approve the 2016 AQMP RACT SIP, as supplemented in the 2017 RACT Supplement.

Lastly, with respect to the two major NO_X sources in Coachella Valley that are not otherwise subject to District RACT-level command-and-control regulations, we proposed approval of certain permit conditions that were included in appendices A and B to the 2017 RACT Supplement. As described in the proposed rule, the permit conditions submitted by the District for these facilities (both of which are electric generating facilities) pertain to specified NO_X emission limits ranging from 2.5 to 5 parts per million (ppm) for the gas turbines, control technology (selective catalytic reduction (SCR)), and monitoring, among other elements. The District's analysis indicated that SCR is generally identified as an emission control technology to achieve ''best available control technology'' emission limits in the range of 2 to 5 ppm for gas turbines, and thus the controls meet or exceed the requirements for RACT. We reviewed the permit conditions (and SCAQMD's

[9] BARCT is defined as ''an emission limitation that is based on the maximum degree of reduction achievable taking into account environmental, energy, and economic impacts by each class or category of source.'' CH&SC section 40406. For the purposes of comparison, the EPA defines RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. 44 FR 53762 (September 17, 1979). As such, we generally find that BARCT level of control meets or exceeds RACT level of control. For additional background, see the technical support document (TSD) associated with our June 15, 2017 proposed rule explaining how SCAQMD's RECLAIM program, as amended in 2015, fulfills the RACT requirement based on the District's re-evaluation of the 2015 BARCT reassessment in terms of RACT, rather than BARCT.

[10] *See* District Rule 2001 (''Applicability''), as amended May 6, 2005. Exemptions from RECLAIM, such as the exemption for certain facilities located in Coachella Valley, are listed in Rule 2001(i).

[11] *See* 59 FR 16690 (April 7, 1994) and the EPA's, ''Improving Air Quality with Economic Incentive Programs,'' EPA–452/R–01–001 (January 2001), at Section 16.7 and 80 FR 12264, 12279 (March 6, 2015).

[12] 71 FR 51120 (August 29, 2006) and 76 FR 50128 (August 12, 2011).

[13] *See* pre-publication version of the final rule, approving the 2015 amended RECLAIM rules, that was signed on August 15, 2017 by the Acting Regional Administrator, EPA Region IX.

[14] We also agree with the District that RECLAIM rule amendments in October 2016 help to ensure the success of the program in achieving BARCT-equivalent (and RACT-equivalent) reductions by preventing the majority of facility shutdown RTCs from entering the market and delaying the installation of pollution controls at other NO_X RECLAIM facilities. The EPA recently approved RECLAIM amendments, including the October 2016 amendments, as a revision to the California SIP. See pre-publication version of the final rule approving the RECLAIM rule amendments signed on August 15, 2017.

analysis) and found that they provide for RACT level of control (or better) at the two subject facilities in Coachella Valley. In this action, we affirm that finding and are approving into the SIP the submitted permit conditions for the two specific major NO_X sources in Coachella Valley.

For more background information and a more extensive discussion of the 2016 AQMP RACT Demonstration, the 2017 RACT Supplement, and negative declarations and our evaluation of them for compliance with CAA RACT requirements, please see our proposed rule and related technical support document (TSD).

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period which ended on July 17, 2017. During this period, we received comments from Earthjustice, which submitted comments on behalf of the Sierra Club.[15] In the following paragraphs, we summarize the comments and provide our responses.

Comment #1: Earthjustice contends that a cap-and-trade program, such as RECLAIM, can never provide the basis for compliance with the RACT requirement in CAA sections 182(b)(2) and 182(f) based on the plain language of the CAA that, according to Earthjustice, requires all major sources to implement RACT, *i.e.,* RACT must be met by each individual major source and cannot be met by achieving equivalent levels of emission reductions across the nonattainment area. In support of this contention, Earthjustice highlights the word ''all'' in CAA section 182(b)(2) in connection with implementation of RACT at major sources and cites legislative history for the CAA Amendments of 1990 that purports to emphasize the applicability of the RACT requirement to all major sources of NO_X in an ozone nonattainment area.

Earthjustice also views the EPA's longstanding definition of RACT as supporting an interpretation of the RACT requirement as applicable to each and every major NO_X source, not a collective emission limitation for an entire class of sources located across a nonattainment area or an entire state or region. Earthjustice also claims that reliance on emissions trading to meet the RACT requirement for major NO_X sources is tantamount to creating a NO_X exemption that is inconsistent with the explicit NO_X exemptions found at CAA section 182(f). Lastly, Earthjustice cites the EPA's November 3, 2016 proposed rule as further support that emissions averaging in the South Coast does not actually provide RACT-level reductions.

Response #1: We disagree that a cap-and-trade program can never be approved as meeting the RACT requirement of CAA sections 182(b)(2) and 182(f). First, we note that our action today is consistent with our past approval actions on the RECLAIM rules and amendments as meeting the RACT requirement and, more recently, with our SIP requirements rule for the 2008 ozone standard (''2008 Ozone SIP Requirements Rule'') that indicates that a cap-and-trade approach remains a viable option to comply with the RACT requirement. More specifically, in our final 2008 Ozone SIP Requirements Rule, we indicated that states have the option of conducting a technical analysis for a nonattainment area considering the emissions controls required by a regional cap-and-trade program, and demonstrating that compliance by certain sources participating in the cap-and-trade program results in actual emission reductions in the particular nonattainment area that are equal to or greater than the emission reductions that would result if RACT were applied to an individual source or source category within the nonattainment area. See 80 FR 12264, at 12279 (March 6, 2015). For additional discussion of this option, please see our proposed 2008 Ozone SIP Requirements Rule at 78 FR 34178, at 34192–34193 (June 6, 2013).[16]

Second, CAA section 182(b)(2), in relevant part, provides that the state shall submit a revision to the SIP to include provisions to require the implementation of RACT under section 172(c)(1) of this title with respect to, among other categories, all other major stationary sources of VOC that are located in the area, and Section 182(f) extends the requirements for major stationary sources of VOC to major stationary sources of NO_X, unless exempted under the terms of section 182(f). As such, CAA section 172(c)(1) is explicitly brought into section 182(b)(2) and affects how it is interpreted. Specifically, section 172(c)(1), in relevant part, requires SIP revisions for nonattainment areas to ''provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology).''

The plain language of section 172(c)(1)—''such reductions . . . as may be obtained through the adoption, at a minimum, of reasonably available control technology''—does not require reductions from each individual source but rather only requires areas to achieve the same level of emissions reductions from stationary sources that installing reasonably available control technology would yield. In other words, as long as the level of emissions reductions obtained in the area from stationary sources equals or exceeds the level of emissions reductions that would be achieved through implementation of RACT at existing sources, then the RACT requirement of section 172(c)(1) are met. *See NRDC* v. *EPA,* 571 F.3d 1245, 1256–58 (D.C. Cir. 2009).

Section 182(b)(2) simply prescribes a more specific bar for the required level of emissions reductions that must be obtained. With respect to major stationary sources of NO_X, the bar for the required level of emissions reductions that must be obtained is calculated based on the emissions reductions that can be achieved through implementation of RACT at major stationary sources of NO_X. Consistent with section 172(c)(1), the emissions reductions need not come from the major NO_X sources themselves so long as an equal or greater level of emissions reductions are obtained within the area. As such, the plain language of sections 172(c)(1) and 182(b)(2) allows a cap-and-trade program to meet the RACT requirements of those sections for major NO_X sources so long as the overall emissions reductions that are obtained equal or exceed that level of emissions reductions that would have been obtained through implementation of RACT at the major NO_X sources themselves. The plain language of the CAA supporting the EPA's interpretation negates the need to consult the legislative history cited by Earthjustice in its comment.

The area-wide—rather than individual, source-specific—nature of the RACT requirement is reinforced by

[15] Earthjustice submitted a letter dated July 17, 2017, on behalf of the Sierra Club. These comments are in the docket at *www.regulations.gov,* docket ID EPA–R09–OAR–2016–0215.

[16] The EPA's position that states may comply with the RACT requirement in the aggregate through a cap-and-trade program is part of the ongoing legal challenge to our 2008 ozone implementation rule filed in the D.C. Circuit Court of Appeals. In the consolidated case, *South Coast Air Quality Management District* v. *EPA,* D.C. Cir., No. 15–1115, the environmental petitioners object to reliance on cap-and-trade programs to meet the section 182 RACT requirement. The Agency's arguments in support of its interpretation of the RACT requirement with respect to cap-and-trade programs are found in the respondent's brief dated September 13, 2016. Oral argument in the D.C. Circuit for the national case is scheduled for September 14, 2017.

CAA section 182(b)(2), which requires states to revise their SIPs to adopt RACT ''with respect to'' specified categories of VOC sources. The plain language of that provision does not mandate emission reductions from each individual source. In contrast, the next subsection of that same provision imposes individual, source-specific requirements by mandating that State Implementation Plans ''require all owners or operators of gasoline dispensing systems to install and operate . . . a system for gasoline vapor recovery. . . .'' *See* CAA section 182(b)(3).

Third, Earthjustice cites the EPA's longstanding definition of RACT as support for its position, however, the definition cited in the comment does not require an individual, source-specific application of control technology. Instead, it is used solely as the beginning point for the extrapolation of the total reductions that each nonattainment area must achieve to satisfy the section 172(c)(1) RACT requirement.

Fourth, we also disagree with the claim that reliance on emissions trading to meet the RACT requirement for major NO_X sources is tantamount to creating a NO_X exemption and that such an exemption is inconsistent with the explicit NO_X exemptions found at CAA section 182(f). The RECLAIM program in the South Coast provides no exemption per se for major NO_X sources. Each such source must install controls or purchase credits sufficient to meet their annual allocation.

Lastly, we acknowledge Earthjustice's comment that our November 3, 2016 rulemaking proposed to partially disapprove the 2016 AQMP RACT SIP because of deficiencies in the RECLAIM rules. However, our proposed partial disapproval was not based on the fact that RECLAIM is an emissions averaging program but rather on the evidence at hand that suggested that the then-current SIP RECLAIM program did not actually provide for the emissions reductions necessary to achieve RACT-level reductions. Since then, the District has amended, and the EPA has approved, the RECLAIM rules to achieve greater aggregate emissions reductions from the sources in the program, and based on the District's evaluation of the amended program as set forth in the 2017 RACT Supplement, we have concluded that the RECLAIM rules, as amended, meet the RACT requirement in sections 182(b)(2) and 182(f) with respect to major stationary sources of NO_X in the South Coast.

Comment #2: Earthjustice contends that approval of the South Coast RACT demonstration would be arbitrary and capricious because the RECLAIM rules, as amended in 2015, do not achieve aggregate emissions reductions of NO_X equivalent to those that would be achieved through implementation of RACT level of control at each major NO_X source in the South Coast. Earthjustice summarized that, as a part of the District's rule development process culminating in the 2015 RECLAIM amendments, SCAQMD analyzed whether its program achieved Best Available Retrofit Control Technology (BARCT) controls. The commenter points out that the District's analysis identified refineries as having the largest total NO_X emissions and as holding the largest percentage of RTCs, but that the RECLAIM program had excess RTCs that resulted in refinery facilities not needing to achieve actual emission reductions.

Earthjustice points out that SCAQMD's BARCT assessment concluded that a 14 tpd ''shave'' from the program was needed to be equivalent to a traditional command-and-control regulatory approach. Earthjustice further asserts that if readily available BARCT equipment were applied to sources of pollution in the program, emissions would have been at 9.5 tpd instead of 20.7 tpd. Earthjustice comments that, although the SCAQMD staff recommended a 14 tpd shave, the Governing Board adopted a 12 tpd shave instead. Earthjustice further states that the record shows that the 12 tpd shave does not sufficiently result in RACT level controls for the NO_X RECLAIM universe and that the EPA has a record before it showing that at least a 14 tpd shave is necessary to achieve what the District confirmed was necessary to assure implementation of RACT-equivalent level of controls that the BARCT assessment demonstrated was necessary. Moreover, Earthjustice states that the record shows that the pace of the shave interferes with attainment of the 2006 $PM_{2.5}$ standard.

Response #2: We disagree with Earthjustice's implication that the terms RACT and BARCT are interchangeable and its assertion that the record shows a 14 tpd shave is needed to meet RACT.

BARCT is a term used by the State of California and is defined as ''an emission limitation that is based on the *maximum degree of reduction* achievable, taking into account environmental, energy, and economic impacts by each class or category of source.'' [17] [Emphasis added.] By comparison, the EPA defines RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is *reasonably available* considering technological and economic feasibility. 44 FR 53762 (September 17, 1979). The EPA has historically not treated these terms interchangeably and has generally found that BARCT level of control meets or exceeds RACT level of control.[18]

We note that SCAQMD determined in its December 4, 2015 Draft Final Staff Report that only four out of an estimated 51 boilers/heaters were retrofitted with selective catalytic reduction to reduce NO_X emissions to comply with BARCT.[19] The staff report does not discuss RACT in the context of the RECLAIM program. Therefore, we disagree with the commenter that the December 4, 2015 Draft Final Staff Report or elsewhere in the record that SCAQMD had determined that the 2015 amendments to the RECLAIM program fail to implement RACT. The TSD associated with our June 15, 2017 proposed rule explains how the RECLAIM program, as amended in 2015, fulfills the RACT requirement based on the District's re-evaluation of the 2015 BARCT reassessment in terms of RACT, rather than BARCT. We find the District evaluation of the amended RECLAIM program to be acceptable as the basis to conclude that the amended program provides equivalent emissions reductions in the aggregate to those that would be achieved through implementation of RACT at all major NO_X sources in the South Coast.

Lastly, we disagree with Earthjustice's assertion that the EPA should not approve the South Coast RACT demonstration because the pace of the NO_X shave would interfere with

[17] California Health and Safety Code section 40406. Available at: *https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40406.&lawCode=HSC.*

[18] See for example, 68 FR 52512 (September 4, 2003, comment #14: ''What is the difference between BARCT and RACT? . . . BARCT is defined under California state law and not under the CAA. This is a state-only requirement. As it happens, BARCT is more stringent than RACT'', available at *https://www.gpo.gov/fdsys/pkg/FR-2003-09-04/pdf/03-22444.pdf;* and 77 FR 31200 (May 25, 2012), response to comment 26: ''A review of both terms [Federal best available control technology (BACT) and California BARCT] shows that the definition of BARCT contains the same key elements of the Federal BACT definition . . . An air emission limitation that applies to existing sources and is based on the maximum degree of reduction achievable, taking into account environmental, energy, and economic impacts by each class or category of sources'', available at *https://www.gpo.gov/fdsys/pkg/FR-2012-05-25/pdf/2012-12500.pdf.* A BACT level of control is a more stringent than a RACT level of control.

[19] *See* Draft Final Staff Report, Proposed Amendments to Regulation XX Regional Clean Air Incentives Market (RECLAIM)—NO_X RECLAIM, dated December 4, 2015, (page 78) available at: *https://www.regulations.gov/document?D=EPA-R09-OAR-2017-0259-0021.*

attainment of the 2006 $PM_{2.5}$ standard. This final rule addresses a requirement applicable to ozone nonattainment areas, not $PM_{2.5}$ areas. With respect to the latter pollutant, the EPA will consider the pace of NO_X reductions in the 2015 RECLAIM rule amendments in the context of our evaluation of the reasonable further progress (RFP) and attainment demonstrations in the $PM_{2.5}$ portion of the recently submitted 2016 South Coast Air Quality Management Plan.

Comment #3: Earthjustice contends that the District has failed to remedy the problem of credits from shutdowns that have occurred prior to 2016 and notes that such credits have had the effect of depressing credit prices and thereby allowing major sources, particularly refineries, to avoid installation of BARCT/RACT controls like SCRs. Earthjustice identifies California Portland Cement as one of the most significant shutdown facilities whose credits (2.5 tons per day) have led to this problem and contends that refineries and other facilities continue to use credits from that shutdown facility to avoid installation of BARCT/RACT controls. To remedy this problem, Earthjustice asserts that the pre-2016 credits, including those from California Portland Cement, must be removed to achieve BARCT/RACT level of control.

Response #3: The RECLAIM rule amendments adopted by the District in 2016 were enacted specifically to avoid the effect of shutdown credits depressing credit prices and allowing sources to avoid installation of pollution controls, but we recognize that the 2016 amendments act prospectively and do not address credits from shutdowns that occurred prior to the amendments. Nonetheless, the 12-tpd shave in the NO_X annual allotments enacted by the District in 2015 discounts RTCs to a much greater extent than necessary to simply address the significant market effect of credits from pre-2016 shutdowns. As such, the problem has been adequately addressed and the associated disincentive to install controls has been removed.[20]

Comment #4: Earthjustice contends that, while in some cases BARCT may exceed RACT, BARCT does not exceed RACT with respect to the District's 2015 BARCT assessment controls because the BARCT level controls established in the 2015 BARCT analysis are cost-effective and have been achieved in practice. Earthjustice objects to the District's general approach to distinguishing between BARCT and RACT-level controls in the 2017 RACT Supplement as artificially narrow on the grounds that the analysis only focuses on regulations that are adopted by either SCAQMD or other California Air Districts. Earthjustice objects to this approach because the District itself has generally abandoned adopting command-and-control regulations for NO_X RECLAIM facilities and the limited geographic focus of the evaluation on California-only air districts for more stringent controls is not supported by the Clean Air Act. The focus on rules, Earthjustice contends, distracts from the actual technology, which the District has determined are cost effective and have been used in practice. More specifically, Earthjustice states that the District ''has not articulated how the seven of ten BARCT level controls fail to meet the RACT determination.'' Lastly, Earthjustice asserts that the RECLAIM program has a number of features that together keep credit prices low, which inhibits the installation of controls.

Response #4: We agree that, in its 2015 BARCT reassessment, the District identified 10 equipment categories as capable of further emissions reductions (beyond the 2005 NO_X emission factors) and that the District's analysis was based on retrofit technologies that the District had concluded were cost-effective and achieved in practice. However, the District's determinations in this regard were for BARCT, not RACT, *i.e.,* the emission limitations and associated retrofit technologies were found by the District to be cost-effective and achieved in practice to reduce emissions to the *maximum* degree of reduction achievable, not to the degree of reduction achievable through *reasonably available* controls.

There is no universal method for evaluating a cap-and-trade program for RACT equivalence, and we find the District's approach, *i.e.,* distinguishing between BARCT and RACT on the basis of whether the BARCT controls have been adopted by the District itself or any other California Air District, to be reasonable. The commenter objects to the District's basic approach as too narrow because the District should have considered the rules adopted by air agencies in other states. However, we believe that the SCAQMD's approach is reasonable because the SCAQMD has, for the purposes of meeting other CAA requirements such as demonstrating attainment, continued to tighten emission limits in its own command-and-control rules to reduce emissions from many of the same types of sources that are included in the RECLAIM program,[21] and the emission limits in its own command-and-control rules thus provide a basis for comparison with RECLAIM emissions factors. Also, the larger California Air Districts, such as the San Joaquin Valley Unified Air Pollution Control District, are similar to the SCAQMD in that they have been designated nonattainment for the ozone NAAQS for several decades and have conducted several rounds of RACT review for their rules, which, therefore, provide another appropriate basis of comparison with RECLAIM emissions factors.

Nonetheless, while we believe the SCAQMD's approach in the 2017 RACT Supplement is reasonable, we have provided additional review of the seven RECLAIM categories for which the District concluded that the 2005 RECLAIM factors represent RACT level of control. The seven categories include four from the refinery sector: Fluid catalytic cracking units (FCCUs), boilers and heaters, coke calciners, and sulfur recovery unit/tail gas (SRU/TG) incinerators, and three from the non-refinery sector: Glass melting furnaces, sodium silicate furnaces, and metal heating treating.

At the outset, we note that, while the EPA has not established a simple cost-effectiveness threshold to determine RACT in all applications, the incremental cost effectiveness estimates for three of the seven categories (refinery boilers and heaters, coke calciners, and SRU/TG incinerators) to achieve 2015 BARCT (relative to the 2005 BARCT) exceed $22,000 per ton [22] and are well above any such estimates that the Agency has generally considered appropriate for determining RACT.[23] As such, we agree with the

[20] *See* 2017 RACT Supplement, page 19: ''Facilities, such as refineries, that typically purchased RTCs in the past to offset emissions will now be required to install pollution controls due to a greater shift of the shave to the refinery sector (*i.e.,* 56% shave for the refinery sector). The 2016 RECLAIM amendments, which addressed RECLAIM facility shutdowns, would prevent an excess amount of RTCs resulting from shutdowns from being introduced into the market.''

[21] *See,* for example, Rule 1146 (Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters), which was amended most recently on September 5, 2008 to reduce NO_X limits. (The District has further amended Rule 1146 in 2013 but the 2013 amendments did not affect the NO_X limits.)

[22] The incremental cost estimates are found in table 1 (page 6) of agenda item number 30 (Proposed Amendments to NO_X RECLAIM Program (Regulation XX)) for the SCAQMD's board meeting on December 4, 2015. This table was also included on page 5 of Earthjustice's July 17, 2017 comment letter.

[23] For EPA statements on cost effectiveness in the RACT context, please see the EPA's final implementation rule for the 1997 8-hour ozone NAAQS at 70 FR 71612, at 71654–71655 (November 29, 2005). The RACT discussion in the final implementation rule for the 2008 ozone NAAQS is

Continued

District that the 2005 RECLAIM factors for these three categories represent at least RACT level of control. We provide our review of the four other categories in the following paragraphs.

First, with respect to FCCUs, the District's 2015 BARCT staff report compiled and evaluated emissions limits adopted throughout the U.S. and internationally.[24] The most stringent limits for FCCUs identified therein are in the 8–10 ppm range, which is equivalent to the 85% reduction that was included in the 2005 RECLAIM amendments for this category.[25] As such, we find that the 2005 RECLAIM factors for refinery FCCUs reflect RACT level of control. For comparison purposes, the 2015 BARCT RECLAIM factor for FCCUs is 2 ppm.

Second, with respect to glass melting furnaces, the RECLAIM NO_X factor for the container glass melting category prior to the 2015 RECLAIM amendments was 1.2 pound of NO_X per ton of glass pulled.[26] The EPA agrees that this limit meets RACT since it is consistent with the 1.5 pound of NO_X per ton of glass limit [27] we approved for San Joaquin Valley Unified Air Pollution Control District's Rule 4354 (''Glass Melting Furnaces'') as implementing RACT for an Extreme ozone nonattainment area. For comparison purposes, the 2015 BARCT RECLAIM factor for glass melting furnaces is 80% reduction (or 0.24 lb/ton glass produced).

Third, with respect to metal heat treating furnaces, the 2005 RECLAIM BARCT emission factor for this category is 45 ppm.[28] We find that this limit is consistent with the 60 ppm limit for metal melting furnaces in the District's corresponding command-and-control rule, Rule 1147 (''NO_X Reductions from Miscellaneous Sources'').[29] The 2015 BARCT RECLAIM factor for metal heat treating furnaces >150 MMBtu/hr is 9 ppm.

Fourth, with respect to sodium silicate furnaces, we note that the incremental emissions reductions (0.09 tons per day) are too small to affect the conclusion of the analysis because the SCAQMD's ending allocation under the 2015 RECLAIM amendments of 14.5 tons per day is 0.3 tons per day less (*i.e.,* more stringent) than the hypothetical ending allocation reflecting RACT level of control (*i.e.,* 14.8 tons per day). Thus, even if we were to assume that the 2015 RECLAIM factor for this category (80% reduction) represents RACT, the SCAQMD's 2015 ending allocation (14.5 tons per day) would still be less than the hypothetical ending allocation reflecting RACT level of control (14.8 minus 0.09 or 14.71 tons per day).

Therefore, we do not believe that the comment has demonstrated that controls that SCAQMD labels BARCT, can be assumed to also be RACT. Rather, we think it is appropriate to generally rely on the more involved RACT analysis performed by different agencies at the time of rule adoption or preparation of a RACT SIP. As such, we believe it is reasonable to assume that a control is beyond RACT if it has not yet been adopted by air districts in California.

Lastly, with respect to the issue of excess credits in the RECLAIM market and related delays in the installation of controls, please see our response to comment #3.[30]

Comment #5: Citing CAA section 110(a)(2)(E), Earthjustice asserts that the EPA can only approve a SIP revision if it determines that the provision is not inconsistent with state law. Earthjustice contends that the current proposal violates California law because it is not equivalent to BARCT and does not achieve command-and-control equivalence as mandated by California's Health and Safety Code. As such, Earthjustice contends that the EPA cannot make the determination required in section 110 of the Act that the approval not interfere with compliance with state law.

Response #5: We disagree that we must determine under CAA section 110 that a SIP or SIP revision is not inconsistent with state law, or that the approval would not interfere with compliance with state law, prior to approval. Rather, in reviewing SIPs and SIP revisions, the EPA must determine that the SIP or 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 the SIP or SIP revision (and is not prohibited by any provision of federal or state law from carrying out such SIP or portion thereof).[31]

First, alleged inconsistency with state law is relevant to the EPA in the context of our SIP review only if it undermines the legal authority under state or local law to carry out the SIP. In this instance, compliance with the RACT requirement in the South Coast depends in part on the legal authority of the SCAQMD to carry out the RECLAIM rules, as amended in 2015 and 2016,[32] and as to the amended RECLAIM rules, the EPA has been provided the necessary assurances by CARB that the District has the legal authority to carry out the rules. *See* CARB Executive Order S–17–002 (dated March 16, 2017) adopting the amended 2015 and 2016 RECLAIM rules as a revision to the California SIP.[33] For that reason, we find that the 2016 AQMP RACT SIP, as supplemented by the 2017 RACT Supplement and negative declarations, is supported by adequate legal authority and, thus, meets the corresponding requirements in CAA section 110(a)(2)(E).

III. Final Action

Under section 110(k)(3) of the Act, and for the reasons set forth in the proposed rule and summarized above, the EPA is taking final action to approve certain revisions to the California SIP submitted by CARB to address the RACT requirements for the 2008 ozone standard for the South Coast and Coachella Valley nonattainment areas. More specifically, we are approving the RACT demonstration in the 2016 AQMP RACT SIP, as supplemented in the 2017 RACT Supplement, certain permit conditions for two power plants in Coachella Valley included with the 2017 RACT Supplement, and two

found at 80 FR 12264, at 12278–12283 (March 6, 2015).

[24] See appendix A to the SCAQMD staff report, which is attachment H to agenda item number 30 (Proposed Amendments to NO_X RECLAIM Program (Regulation XX)) for the December 4, 2015 SCAQMD board meeting.

[25] Email from Kevin Orellana, Air Quality Specialist, Planning, Rule Development, and Area Sources, SCAQMD, August 22, 2017.

[26] See SCAQMD Rule 2002, Table 1.

[27] See our TSD supporting approval of Rule 4354 amended September 16, 2010, 76 FR 53640 (August 29, 2011) which includes a review of NO_X limits for glass melting furnaces in other states and in the RACT/BACT/Lowest Available Emission Rate clearinghouse available at *https://www.regulations.gov/contentStreamer?documentId=EPA-R09-OAR-2011-0412-0004&contentType=pdf.*

[28] See SCAQMD Rule 2002, Table 3.

[29] Rule 1147 was first adopted by SCAQMD on December 5, 2008 and amended on September 9, 2011. These amendments were approved into the SIP in 75 FR 46845 (August 4, 2010), and 81 FR 95472 (December 28, 2016) respectively. SCAQMD's July 7, 2017 amendments to Rule 1147 have not been submitted to EPA for SIP approval.

[30] We note also that the 2016 South Coast Air Quality Management Plan provides for further NO_X reductions from RECLAIM sources. More specifically, in adopting the plan, the District committed to modify the RECLAIM program to achieve an additional 5 tpd NO_X emission reduction as soon as feasible, but no later than 2025, and to transition the RECLAIM program to a command-and-control regulatory structure. *See* footnote 14 of our proposed rule.

[31] *See* CAA section 110(a)(2)(E).

[32] As noted previously, the EPA has approved the 2015 and 2016 amended RECLAIM rules in a separate rulemaking.

[33] The Executive Order states 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).

negative declarations (for the CTG for shipbuilding and repair operations and for the paper coating portion of the CTG for paper, film and film coatings) because collectively they fulfill RACT SIP requirements under CAA sections 182(b) and (f) and 40 CFR 51.1112 for the South Coast and Coachella Valley for the 2008 ozone NAAQS.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of certain permit conditions for two stationary sources in Coachella Valley 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 SIP revisions as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this 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 20, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 29, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

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)(449)(ii)(C) and (c)(492) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(449) * * *

(ii) * * *

(C) South Coast Air Quality Management District.

(*1*) South Coast Air Quality Management District, ''2016 AQMP Reasonably Available Control Technology (RACT) Demonstration,'' dated May 22, 2014.

* * * * *

(492) The following plan revisions were submitted on July 27, 2017 by the Governor's designee.

(i) *Incorporation by reference.* (A) South Coast Air Quality Management District.

(*1*) Appendix A to the Supplemental RACM/RACT Analysis for the NO_X RECLAIM Program, Facility Permit to Operate, 63500 19th Ave., North Palm Springs, CA 92258, title page, table of contents, section A (page 1), and section D (pages 1–21), adopted on July 7, 2017.

(*2*) Appendix B to the Supplemental RACM/RACT Analysis for the NO_X RECLAIM Program, Facility Permit to Operate, 15775 Melissa Land Rd, North Palm Springs, CA 92258, title page, table of contents, section A (page 1), and section D (pages 1–49), adopted on July 7, 2017.

(ii) *Additional materials.* (A) South Coast Air Quality Management District.

(*1*) Attachment B (''Supplemental RACM/RACT Analysis for the NO_X RECLAIM Program (May 2017)''), excluding Appendices A and B.

(*2*) Attachment C (''Negative Declaration for Control Techniques Guidelines of Surface Coating Operations at Shipbuilding and Repair Facilities, and Paper, Film and Foil Coatings (May 2017)'').

■ 3. Section 52.222 is amended by adding paragraph (a)(13) to read as follows:

§ 52.222 Negative declarations.

(a) * * *

(13) South Coast Air Quality Management District.

(i) Negative declarations for the 2008 ozone standard: Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating) including (published on August 27, 1996) and EPA 453/R–94–032 Alternative Control Techniques Document: Surface Coating Operations at Shipbuilding and Ship Repair Facilities; paper coating portion of EPA 453/R–07–003 Control Techniques Guidelines for Paper, Film, and Foil Coatings.

(ii) [Reserved]

* * * * *

[FR Doc. 2017–19693 Filed 9–19–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 67

[USCG–2016–0531]

Vessel Documentation Regulations—Technical Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is making technical amendments to its vessel documentation regulations. A Certificate of Documentation, which is required for the operation of a vessel in certain trades, serves as evidence of vessel nationality, and permits a vessel to be subject to preferred mortgages. The amendments make non-substantive edits to align Coast Guard regulations with current vessel documentation statutes, correct typographical errors, and align procedural requirements with current Coast Guard practice.

DATES: This final rule is effective September 20, 2017.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Ms. Andrea Heck, National Vessel Documentation Center, U.S. Coast Guard; telephone 304–271–2461, email *Andrea.M.Heck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

CFR Code of Federal Regulations
COD Certificate of Documentation
NVDC National Vessel Documentation Center
OMB Office of Management and Budget
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Basis, Purpose, and Good Cause Exception to Notice and Comment Requirements

The legal basis of this rulemaking is provided by Title 46 of United States Code (U.S.C.), section 2103. Section 2103 gives the Secretary of the department in which the Coast Guard is operating regulatory authority to carry out the provisions of Title 46, subtitle II (Vessels and Seamen) of the U.S.C., in which vessel documentation statutes are located. The Secretary's authority is delegated to the Coast Guard by Department of Homeland Security Delegation No. 0170.1, para. II (92.a). The purpose of this rule is to make non-substantive edits to: (1) Align the Coast Guard's vessel documentation regulations with current statutes on that subject; (2) correct typographical errors; and (3) align procedural requirements with current Coast Guard practice.

We did not publish a notice of proposed rulemaking for this rule. Under Title 5 of United States Code (U.S.C.) section 553(b)(A), the Coast Guard finds that this rule is exempt from notice and public comment rulemaking requirements, because these changes involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds that notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B), as this rule consists only of technical and editorial corrections, organizational, and conforming amendments, and that these changes will have no substantive effect on the public. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this final rule effective upon publication in the **Federal Register**.

III. Petition for Rulemaking

On October 18, 2013, the Maritime Law Association, a private group consisting primarily of maritime lawyers, petitioned the Coast Guard to open a rulemaking to make numerous changes to our vessel documentation regulations.[1] The Coast Guard granted the petition on November 6, 2013, and shortly thereafter, began working with members of the Maritime Law Association to identify specifically what changes should be made. Many of the changes the group requested involve significant substantive changes that may be the subject of future regulatory action. However, part of the review process also revealed several instances where the Coast Guard could currently make non-substantive technical corrections.

IV. Discussion of the Rule

''Vessel documentation'' refers to the system under which a vessel receives a Government certificate of documentation (COD). This certificate is required for the operation of a vessel of at least 5 net tons in certain trades including: (1) Fisheries on the navigable waters of the United States or its Exclusive Economic Zone; (2) foreign trade or trade with U.S. overseas territories; and (3) coastwise trade (trade between U.S. ports without leaving U.S. territorial waters) as described in 46 U.S.C. 12102 and 46 U.S.C. chapter 121, subchapter II. The COD is also a required element, in 46 U.S.C. 31322, to establish a vessel's entitlement to preferred mortgage status. Under 46 U.S.C. 31326, preferred mortgages have priority over other liens on vessels, and they offer an enhancement to the security available to lenders.

This final rule makes 35 non-substantive changes to 19 sections in 46 CFR part 67. The changes correct omissions, misspellings, or inaccurate references caused by unintentional typographical errors and make small edits for additional clarity. The changes also update referenced material, such as

[1] Docket ID: USCG–2013–0942, available at *https://www.regulations.gov/docket?D=USCG–2013–0942.*

treaty citations and web addresses. Over the course of several decades, through various laws, Congress has undertaken the task of codifying U.S. shipping laws into positive law. The two most significant of these acts were Public Law 98–89 (1986), which codified subtitle II of Title 46 into positive law, and Public Law 109–304 (2006), which completed the process of codifying all of Title 46 into positive law. Due to the recodification of Title 46, several 46 CFR part 67 regulations currently contain inaccurate statutory citations. A crosswalk between pre-codified and codified provisions of Title 46 is available in the disposition tables in 46 U.S.C.[2]

The changes made by this rule also reflect the elimination of citizenship requirements for mortgagees by Public Law 104–324, section 1113 (1996). Since the issuance of Public Law 104–324, the National Vessel Documentation Center (NVDC) has allowed vessel owners to mortgage their vessels to non-citizens, and it has not restricted the eligibility of a vessel mortgaged to a non-citizen to earn registry or coastwise endorsements, even though 33 CFR 67.17(c) and 67.19(d)(3) continue to explicitly state these restrictions. Therefore, amending these sections will align regulatory text with the current and longstanding 20-year practice of the NVDC, consistent with the statutory requirements, and these changes will result in no impact on industry.

This rule also makes changes to reflect the elimination of renewal decals and address labels for CODs issued by the NVDC. In 2001, the NVDC began to use a new database, Vessel Documentation System 1.0, and introduced the current version of the COD (66 FR 15625, March 20, 2001). This information technology system and recordkeeping form made the use of decals and labels unnecessary; therefore, the NVDC stopped requiring them, even though the relevant sections of part 67 continued to reference them. Amending 46 CFR 67.163(c) and 67.311 will align regulatory text with NVDC's current practice, and these changes will result in no impact on industry.

The following table shows the complete list of sections in 46 CFR part 67 that we are amending, the changes we are making, the reasons for those changes, and their impacts.

TABLE OF CHANGES

46 CFR affected section	Changed text	Reason for change	Regulatory impact
67.3	In paragraph (b) of the definition of ''Acknowledgment'' replace ''Hague Convention Abolishing the Requirement for Legalisation of Public Documents'' with ''Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents.''	Minor typographical changes to correct the full title of the Hague Convention in accordance with 33 U.S.T. 883 and TIAS 10072.	None.
	Replace ''Article 3'' with ''Article 4.''	Article 3 is erroneously referenced because the certificate is described in Article 4, not 3.	None.
	Revise the definition of ''Certification of Documentation'' by replacing ''Certification'' with ''Certificate.''	Correct a typographical error contained in 58 FR 60256, Nov. 15, 1993. The referenced document has historically been described as a ''certificate'' in accordance with Title 46 of the U.S.C. This change aligns the defined term with the U.S.C. and corresponding Coast Guard regulations.	None.
	Following the text ''CG–1270'', add ''when issued by the Director, National Vessel Documentation Center.''	The change makes clear that the form itself is not a ''Certificate of Documentation.'' Rather, consistent with longstanding Coast Guard policy, it becomes a ''Certificate of Documentation'' only when issued by the Director, National Vessel Documentation Center.	None.
	In the definition of ''United States,'' replace ''§ 67.19(d)(3)'' with ''§ 67.19(c)(3).''	The reference to 67.19(d)(3) is erroneous because paragraph (d)(3) has no bearing on the scope of the definition of ''United States''; rather it is paragraph (c)(3), which addresses whether or not a rebuilding, if done in a trust territory, would be deemed to have been done in the ''United States.''	None.
	In the definition of ''Wrecked Vessel,'' replace ''46 U.S.C. app. 14'' with ''46 U.S.C. 12107.''	Update the statutory reference to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.11(a)(2) ...	Replace ''section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802) with ''46 U.S.C. 50501.''	Update the statutory references to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.

[2] The most recent disposition tables for Title 46 are available at *https://www.gpo.gov/fdsys/pkg/USCODE-2015-title46/pdf/USCODE-2015-title46-front.pdf.*

TABLE OF CHANGES—Continued

46 CFR affected section	Changed text	Reason for change	Regulatory impact
	Remove the word ''mortgaged.''	Citizenship requirements for mortgagees were eliminated by Public Law 104–324, section 1113, in October 1996. Since the issuance of Public Law 104–324, the NVDC has allowed vessel owners to mortgage their vessels to non-citizens, and it has not restricted the eligibility of a vessel mortgaged to a non-citizen to earn registry or coastwise endorsements, even though the relevant sections of part 67 continued to explicitly state these restrictions.	None. Amending this paragraph will align regulatory text with statutory requirements and longstanding corresponding practices of the NVDC.
67.13(a)	Replace an old National Archives and Records Administration Internet address with the new one.	Update an obsolete web address	None.
67.14	Replace ''44 U.S.C. 3507(f)'' with ''44 U.S.C. 3507(a)(3).''	The stated purpose of this section is to affirm the intention of the Coast Guard to comply with the requirement of the Paperwork Reduction Act that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each approved agency information collection requirement. That requirement is set forth at 44 U.S.C. 3507(a)(3), not at 44 U.S.C. 3507(f), which refers only to independent regulatory agencies. The purpose of this change is to correct that erroneous reference.	None.
67.17(c)	Delete paragraph relating to the effect of a vessel's foreign transfer on its eligibility for a registry endorsement.	Reflect elimination of foreign transfer restrictions by Public Law 104–324, section 1113 (1996).	None. Amending this paragraph will align regulatory text with statutory requirements and longstanding corresponding practices of the NVDC.
67.19(b)(6) ...	Replace ''46 U.S.C. app. 808'' with ''46 U.S.C. 57109.''	Update the statutory reference to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.19(d)(2) ...	Replace ''§ 67.35(a)'' with ''§ 67.35(c).''	Section 67.19 addresses eligibility for a coastwise endorsement; the reference to 67.35(a) is erroneous because the cross-reference to 67.35(a) is to the partnership citizenship requirements for a recreational endorsement. The partnership citizenship requirements for a coastwise endorsement are found at 67.35(c).	None.
67.19(e)	Delete paragraph (e), which is related to the ineligibility for a coastwise endorsement of a foreign-owned vessel.	Reflect elimination of foreign transfer restrictions by Public Law 104–324, section 1113 (1996).	None. Amending this paragraph will align regulatory text with statutory requirements and longstanding corresponding practices of the NVDC.
67.21(e)	Replace ''46 U.S.C. 12102(c)(5)'' with ''46 U.S.C. 12113(c)(3).''	Update the statutory reference to reflect the recodification of Title 46. (Pub. L. 109–304. (2006)).	None.
67.30(c)	Update reference to the Bowater Amendment and the Oil Pollution Act of 1990; replace ''46 U.S.C. app. 883–1'' with ''46 U.S.C. 12118.''	Update the reference to the Bowater Amendment and the Oil Pollution Act of 1990 to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
	Replace ''46 U.S.C. 12106(d)'' with ''46 U.S.C. 12117.''	Update the statutory reference to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.47(a)(3) ...	Replace '', as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802), to a person not a citizen within the meaning of section 2 of that act'' with ''of the United States to a person not a citizen of the United States, as defined in 46 U.S.C. 50501.''	Reworded sentence and update the statutory references to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.63(b)(1) ...	Replace ''46 U.S.C. app. 14'' with ''46 U.S.C. 12107.''	Update the statutory reference to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.

TABLE OF CHANGES—Continued

46 CFR affected section	Changed text	Reason for change	Regulatory impact
67.133(a)	Replace ''46 U.S.C. app. 14'' with ''46 U.S.C. 12107.''	Update the statutory references to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.133(b)	Replace ''46 U.S.C. app. 14'' with ''46 U.S.C. 12107.''	Update the statutory references to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.141(c)	Replace ''Certification'' with ''Certificate.''	Correct a typographical error made in 65 FR 76572, Dec. 7, 2000, regulatory text. The document has historically been described as a ''Certificate'' in accordance with Title 46 of the U.S.C. This change aligns the defined term with the U.S.C. and corresponding Coast Guard regulations.	None.
67.151(b)	Insert ''determination of the'' following the text ''Upon the.''	Correct a typographical error in which the subject language was inadvertently omitted from the regulation, resulting in an incomplete sentence.	None.
67.161(a)(3)	Replace ''Sections 9 and 37(b) of the Shipping Act, 1916 (46 U.S.C. app. 808, 835(b))'' with ''46 U.S.C. 56101, 56102 and 57109.''	Update the statutory references to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.161(a)(4)	Replace ''Section 902 of the Merchant Marine Act, 1936 (46 U.S.C. app. 1242)'' with ''46 U.S.C. 56301.''	Update the statutory references to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.163(c)	Remove paragraph.	The NVDC no longer issues renewal decals, and therefore, they cannot be affixed. In 2001, the NVDC began to use a new database, Vessel Documentation System 1.0, and introduced the current version of the COD. 66 FR 15625, March 20, 2001. This information technology system and recordkeeping form made the use of decals unnecessary; therefore, the NVDC stopped requiring them, even though the relevant sections of part 67 continued to reference them.	None. Amending this paragraph will align regulatory text with NVDC's current, longstanding practice.
67.165(c)(3)	Replace ''Sections 9 and 37(b) of the Shipping Act, 1916 (46 U.S.C. app. 808, 835(b))'' with ''46 U.S.C. 56101, 56102 and 57109.''	Update the statutory references to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.165(c)(4)	Replace ''Section 902 of the Merchant Marine Act, 1936 (46 U.S.C. app. 1242)'' with ''46 U.S.C. 56301.''	Update the statutory references to reflect recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.167(c)	Replace ''a sea'' with ''at sea.''	Correct a minor grammatical typographical error	None.
67.167(c)(10)	Replace ''46 U.S.C. 12106(e)'' with ''46 U.S.C. 12119.''	Update the statutory reference to reflect the recodification of Title 46. (Pub. L. 109–304 (2006)).	None.
67.167(d)	Replace ''endorsements'' with ''endorsement(s).''	Correct minor typographical error; change conforms this paragraph to paragraphs (b), (c), and (e).	None.
67.203(e)	Remove paragraph	Reflect elimination of foreign transfer restrictions by Public Law 104–324, section 1113 (1996).	None. Amending this paragraph will align regulatory text with statutory requirements and longstanding corresponding practices of the NVDC.
67.203(f)	Remove paragraph	Reflect elimination of foreign transfer restrictions by Public Law 104–324, section 1113 (1996).	None. Amending this paragraph will align regulatory text with statutory requirements and longstanding corresponding practices of the NVDC.

TABLE OF CHANGES—Continued

46 CFR affected section	Changed text	Reason for change	Regulatory impact
67.311	Remove the language referring to exceptions for new address labels or renewal decals.	The NVDC no longer requires new address labels or renewal decals, and therefore, they cannot be altered. In 2001, the NVDC began to use a new database, Vessel Documentation System 1.0, and introduced the current version of the COD. 66 FR 15625, March 20, 2001. This information technology system and recordkeeping form made the use of labels unnecessary; therefore, the NVDC stopped requiring them, even though the relevant sections of part 67 continued to reference them.	None. Amending this section will align regulatory text with NVDC's current practice.
	Change to active voice	For reasons of added clarity, change from passive to active voice in compliance with plain language directives; no substantive change intended.	None.

In association with the changes made by the recodification of title 46, the Coast Guard is updating its list of authority citations for 46 CFR part 67. For a cross-walk between the changes, please see the disposition tables for title 46 and the Historical and Revision Notes for the applicable sections in the U.S.C.[3]

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB's Memorandum ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs''' (April 5, 2017). This rule involves non-substantive changes and internal agency practices and procedures; it will not impose any additional costs on the public. The benefit of the non-substantive changes is increased clarity of regulations.

B. Small Entities

This rule is not preceded by a notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Regulatory Flexibility Act does not apply when notice and comment rulemaking is not required.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new or modified collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (''Federalism'') if the rule has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under Executive Order 13132 and have determined that it does not have implications for federalism.

F. Unfunded Mandates Reform Act

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

[3] The most recent disposition tables for Title 46 are available at *https://www.gpo.gov/fdsys/pkg/USCODE-2015-title46/pdf/USCODE-2015-title46-front.pdf;* Historical and Revision notes for each section are available in the U.S.C. following the code section they accompany.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (''Civil Justice Reform''), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (''Protection of Children from Environmental Health Risks and Safety Risks''). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''), because it does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD (COMDTINST M16475.1D), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket. This rule is categorically excluded under Chapter 2, Section B, Paragraph 2 (Categorical Exclusions), and Figure 2–1 (Coast Guard Categorical Exclusions), paragraph (34)(a) and (34)(d) of the Instruction.

This final rule involves technical amendments to the Coast Guard's vessel documentation regulations. Certificates of Documentation allow the operation of vessels in certain trades, provide evidence of vessel nationality, and permit vessels to be subject to preferred mortgages. The technical amendments presented in this rulemaking entail editorial or procedural changes that: (1) Align Coast Guard regulations with current vessel documentation statutes; (2) correct non-substantive typographical errors; and (3) harmonize procedural requirements with current Coast Guard practice. These amendments collectively promote the Coast Guard's maritime safety, security, and environmental protection missions by rendering the Coast Guard's vessel documentation system more effective.

List of Subjects in 46 CFR Part 67

Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 67 as follows:

PART 67—DOCUMENTATION OF VESSELS

■ 1. The authority citation for part 67 is revised to read as follows:

Authority: 4 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2104, 2107, 12102, 12103, 12104, 12105, 12106, 12113, 12133, 12139; Department of Homeland Security Delegation No. 0170.1.

§ 67.3 [Amended]

■ 2. Amend § 67.3 as follows:
■ a. In the definition of ''Acknowledgment'', redesignate paragraphs (a) and (b) as paragraphs (1) and (2); in newly redesignated paragraph (2), remove the text ''Hague Convention Abolishing the Requirement for Legalisation of Public Documents'' and add in its place the text ''Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents''; and in newly redesignated paragraph (2), remove the text ''Article 3'' and add in its place ''Article 4'';
■ b. In the definition of ''Certification of Documentation'', remove the word ''Certification'' and add in its place the word ''Certificate''; and following the text ''CG–1270'', add the text ''when issued by the Director, National Vessel Documentation Center'';
■ c. In the definition of ''United States,'' remove the text ''§ 67.19(d)(3)'' and add in its place the text ''§ 67.19(c)(3)''; and
■ d. In the definition of ''Wrecked vessel,'' remove the text ''46 U.S.C. app. 14'' and add in its place the text ''46 U.S.C. 12107''.

§ 67.11 [Amended]

■ 3. In § 67.11(a)(2), remove the text ''section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802)'' wherever it appears, and add in its place the text ''46 U.S.C. 50501''; and in paragraph (a)(2), remove the text ''mortgaged,''.

§ 67.13 [Amended]

■ 4. In § 67.13, remove the text ''*http://www.archives.gov/federal_register/code_of_federal_regulations*)/ibr_locations.html'' and add in its place the text ''*http://www.archives.gov/federal-register/cfr/ibr-locations.html*''.

§ 67.14 [Amended]

■ 5. In § 67.14(a), remove the text ''44 U.S.C. 3507(f)'' and add in its place the text ''44 U.S.C. 3507(a)(3),''.

§ 67.17 [Amended]

■ 6. In § 67.17, remove paragraph (c).

§ 67.19 [Amended]

■ 7. Amend § 67.19 as follows:
■ a. In paragraph (b)(6), remove the text ''46 U.S.C. app. 808'' and add in its place the text ''46 U.S.C. 57109'';
■ b. In paragraph (d) introductory text, remove the text '', except as provided in paragraph (e) of this section,''; and in paragraph (d)(2), remove the text ''§ 67.35(a)'' and add in its place the text ''§ 67.35(c)''; and
■ c. Remove paragraph (e).

§ 67.21 [Amended]

■ 8. In § 67.21(e), remove the text ''46 U.S.C. 12102(c)(5)'' and add in its place the text ''46 U.S.C. 12113(c)(3)''.

§ 67.30 [Amended]

■ 9. In § 67.30, remove the text ''46 U.S.C. app. 883–1'' and add in its place the text ''46 U.S.C. 12118''; and remove the text ''46 U.S.C. 12106(d)'' and add in its place the text ''46 U.S.C. 12117''.

§ 67.47 [Amended]

■ 10. In § 67.47(a)(3), remove the text '', as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802), to a person not a citizen within the meaning of section 2 of that act'' and add in its place the text ''of the United States to a person not a citizen of the United States, as defined in 46 U.S.C. 50501''.

§ 67.63 [Amended]

■ 11. In § 67.63(b)(1), remove the text ''46 U.S.C. app. 14'' and add in its place the text ''46 U.S.C. 12107''.

§ 67.133 [Amended]

■ 12. In § 67.133(a) introductory text and (b), remove the text ''46 U.S.C. app. 14'' and add in its place the text ''46 U.S.C. 12107''.

§ 67.141 [Amended]

■ 13. In § 67.141(c), remove the word ''Certification'' and add in its place the word ''Certificate''.

§ 67.151 [Amended]

■ 14. In § 67.151(b), following the text ''Upon the'', add the text ''determination of the''.

§ 67.161 [Amended]

■ 15. Amend § 67.161 as follows:
■ a. In paragraph (a)(3), remove the text ''Sections 9 and 37(b) of the Shipping Act, 1916 (46 U.S.C. app. 808, 835(b))'' and add in its place the text ''46 U.S.C. 56101, 56102 and 57109''; and
■ b. In paragraph (a)(4), remove the text ''Section 902 of the Merchant Marine Act, 1936 (46 U.S.C. app. 1242)'' and add in its place the text ''46 U.S.C. 56301''.

§ 67.163 [Amended]

■ 16. In § 67.163, remove paragraph (c).

§ 67.165 [Amended]

■ 17. Amend § 67.165 as follows:
■ a. In paragraph (c)(3), remove the text ''Sections 9 and 37(b) of the Shipping Act, 1916 (46 U.S.C. app. 808, 835(b))'' and add in its place the text ''46 U.S.C. 56101, 56102 and 57109''; and
■ b. In paragraph (c)(4), remove the text ''Section 902 of the Merchant Marine Act, 1936 (46 U.S.C. app. 1242)'' and add in its place the text ''46 U.S.C. 56301''.

§ 67.167 [Amended]

■ 18. Amend § 67.167 as follows:
■ a. In paragraph (c) introductory text, following the text ''vessel is not'', remove the text ''a sea'' and add in its place the text ''at sea'';
■ b. In paragraph (c)(10) remove the text ''46 U.S.C. 12106(e)'' and add in its place the text ''46 U.S.C. 12119''; and
■ c. In paragraph (d) remove the text ''endorsements'' and add in its place the text ''endorsement(s)''.

§ 67.203 [Amended]

■ 19. In § 67.203, remove paragraphs (e) and (f).

■ 20. Revise § 67.311 to read as follows:

§ 67.311 Alteration of Certificate of Documentation.

No person other than a documentation officer shall intentionally alter a Certificate of Documentation.

Dated: September 15, 2017.

Rebecca Orban,

Acting Chief, Office of Regulations and Administrative Law.

[FR Doc. 2017–20023 Filed 9–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401, 403, and 404

[USCG–2016–0268]

RIN 1625–AC34

Great Lakes Pilotage Rates—2017 Annual Review

Correction

In rule document 2017–18411 beginning on page 41466 in the issue of Thursday, August 31, 2017, make the following corrections:

1. On page 41466, in the first column, in the first line below Table E–1, remove the words **SUPPLEMENTARY INFORMATION:**.

2. On the same page, in the second column, after the second line, insert the words **SUPPLEMENTARY INFORMATION:** on their own line.

§ 401.405 [Corrected]

■ 3. On page 41495, in the second column, in the 22nd line from the bottom, ''Revise § 401.405 to read as follows:'' should read ''In § 401.405, revise paragraph (a) to read as follows:''.

§ 401.420 [Corrected]

■ 4. On the same page, in the same column, in the eighth line from the bottom, ''Revise § 401.420 to read as follows:'' should read ''In § 401.420, revise paragraph (b) to read as follows:''.

§ 401.450 [Corrected]

■ 5. On the same page, in the third column, in the ninth through fourteenth lines,

■ 5. Revise § 401.450 as follows:

■ a. Redesignate paragraphs (b) through (j) as paragraphs (c) through (k), respectively; and

■ b. Add new paragraph (b) to read as follows:

Should read:

■ 5. In § 401.450, redesignate paragraphs (b) through (j) as paragraphs (c) through (k), respectively, and add new paragraph (b) to read as follows:

■ 6. In part 401, in section 401.405, on the same page, in the same column, after the 20th line, add the following line:

* * * * *

§ 404.100 [Corrected]

■ 7. On the same page, in the same column, in the 28th line, ''Amend § 404.101(a) as follows:'' should read ''In § 404.100, revise paragraph (a) to read as follows:''.

■ 8. In part 404, in section 404.100, on the same page, in the same column, after the 39th line, add the following line:

* * * * *

§ 404.103 [Corrected]

■ 9. In the same page, in the same column, in the 41st through 46th lines,

■ a. In paragraph (a), following the words ''dividing each area's'' remove the word ''peak'' and add, in its place, the word ''seasonal''; and

■ b. Revise paragraph (b) to read as follows:

should read:

■ a. In paragraph (a) introductory text, following the words ''dividing each area's'' remove the word ''peak'' and add in its place the word ''seasonal''; and

■ b. Revise paragraph (b).

The revision reads as follows:

§ 404.105 [Corrected]

10. On page 41496, in the first column, in the 22nd and 23rd line, ''and add, in their place, the words ''working capital fund.'' '' should read ''and add in their place the words ''working capital fund''.''.

[FR Doc. C1–2017–18411 Filed 9–19–17; 8:45 am]

BILLING CODE 13010–00–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 15, 90, 95, and 97

[ET Docket No. 15–26; FCC 17–94]

Permitting Radar Services in the 76–81 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) amends its rules to permit vehicular radars and certain non-vehicular fixed and mobile radars used at airports to operate in the entire 76–81 GHz band on an interference-protected basis. Access to the entire 76–81 GHz band is intended to provide sufficient spectrum bandwidth to enable the deployment of wideband high-precision short-range vehicular radar (SRR) applications, such as blind spot detectors, that can enhance the safety of drivers and other road users, while continuing to allow the deployment of proven long-range vehicular radar (LRR) applications, such as adaptive cruise control. The amended rules also permit the deployment in airport air operations areas of fixed and mobile radars that detect foreign object debris (FOD) on runways, which could harm aircraft on take-off and landing, and aircraft-mounted radars that can help aircraft avoid colliding with equipment, buildings, and other aircraft while moving on airport grounds. In addition, the amended rules allow for the continued shared use of the 76–81 GHz band by other incumbent users, including amateur radio operators and the scientific research community.

DATES: *Effective date:* Effective October 20, 2017, except for § 15.37(l), which is effective September 20, 2018.

Applicability date: Section 15.37(o) was applicable beginning July 13, 2017.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* ET Docket No. 15–26, FCC 17–94, adopted July 13, 2017 and released July 14, 2017. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554, or by downloading the text from the Commission's Web site at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0714/FCC-17-94A1.pdf.* Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

I. Introduction

1. On February 3, 2015, the Commission adopted a *Notice of Proposed Rulemaking* (*NPRM*) in this proceeding. 80 FR 12120, March 6, 2015. In the *Report and Order,* the Commission amended the United States Table of Frequency Allocations (U.S. Table) in § 2.106 and several related service rules to establish a comprehensive and consistent set of rules and policies for radar operations in the 76–81 GHz band. The following are the major actions that the Commission took to support the deployment in the 76–81 GHz band of advanced vehicular radar applications and certain non-vehicular fixed and mobile radar applications for use at airports:

- Allocated the 77.5–78 GHz band to the Radiolocation Service on a primary basis in the U.S. Table to provide a contiguous five gigahertz band at 76–81 GHz for radar operations.
- Allowed vehicular radars and certain non-vehicular fixed and mobile radars used at airports to operate in the entire 76–81 GHz band.
- Consolidated radar operations in the 76–81 GHz band under part 95 of the Commission's rules to be licensed-by-rule and protected from interference with the same technical parameters as currently specified for 76–77 GHz radars in part 15 of the rules.
- Restricted fixed radar operations to airport air operations areas to prevent such radars signals from illuminating public roadways and causing harmful interference to vehicular radar operations.
- Reduced the maximum equivalent isotropically radiated power (EIRP) of amateur and amateur satellite operations in the 76–81 GHz band to match that of radar operations in the 76–81 GHz band to reduce the potential for these amateur operations to cause harmful interference to radar operations in the band.

II. Discussion

2. In the *Report and Order,* the Commission amended parts 1, 2, 15, 90, 95, and 97 of its rules to facilitate the deployment in the 76–81 GHz band of advanced vehicular radar applications and certain fixed and mobile radars in airport air operations areas. These actions are described in greater detail below.

A. Allocation Changes to the 77.5–78 GHz Band

3. As proposed in the *NPRM,* the Commission allocated the 77.5–78 GHz band to the Radiolocation Service (RLS) on a primary basis in the U.S. Table. This action made the entire 76–81 GHz band available for licensed radar applications on a primary basis nationwide and brought the U.S. Table into agreement with the International Table of Frequency Allocations. In response to commenters' concerns about the potential for interference from amateur operations to vehicular radar operations in the 76–81 GHz band, the Commission changed the Amateur Service and Amateur Satellite Service allocations in the 77.5–78 GHz band of the U.S. Table from primary to secondary status to match the secondary Amateur Service and Amateur Satellite Service allocations in the remainder of the 76–81 GHz band. As secondary users in the 76–81 GHz band, amateurs will have an obligation to operate in a manner that minimizes the potential for harmful interference to licensed radar applications that will operate under the primary RLS allocation throughout the entire 76–81 GHz band and Radio Astronomy Service (RAS) stations in the 76–81 GHz band, and cannot claim protection from harmful interference from any primary service. If amateur radio operators cause any harmful interference, they will be required to provide an immediate remedy, up to and including terminating their operations. As an added protection against potential interference from amateur operations to vehicular radar operations in the 76–81 GHz band, the Commission amended the part 97 Amateur Radio Service rules to specify a maximum EIRP of 55 dBm (316 Watts) that Amateur Service and Amateur Satellite Service stations in the 76–81 GHz band may transmit, the same as the allowable vehicular radar peak EIRP limit.

4. Although the Commission determined that the addition of the primary RLS allocation in the 77.5–78 GHz band did not raise any new interference considerations for RAS operations in the 76–81 GHz band, because there is no distinction between RAS use of the 77.5–78 GHz band and the remainder of the 76–81 GHz band it upgraded the secondary RAS allocation

in the 77.5–78 GHz band to primary status to match the RAS allocations in the 76–77.5 GHz/78–81 GHz bands. By making the RLS and RAS co-primary throughout the 76–81 GHz band, the Commission provided regulatory consistency between the two services and eliminated the potential problem, in the event of harmful interference to the RAS due to vehicular radar operations, of determining protection rights in favor of addressing and mitigating the interference concern. However, since the Commission determined that addition of the primary RLS allocation in the 77.5–78 GHz band did not raise any new interference considerations that would justify upgrading the secondary Space Research Service (space-to-Earth) (SRS (space-to-Earth)) allocation in the 77.5–78 GHz band to primary status, the Commission maintained this service's current secondary status, consistent with the SRS (space-to-Earth) allocations in the remainder of the 76–81 GHz band. Given the size and scope of the automotive fleet in the United States as compared to the two RAS facilities that operate in the 76–81 GHz band, the Commission declined to adopt commenters proposals for an automatic or manual on/off switch and coordination zones in the vicinity of RAS observatories for vehicular radars that operate in the 76–81 GHz band.

B. Consolidating Vehicular Radar Operations Into the 76–81 GHz Band

5. As part of the Commission's efforts to consolidate future vehicular radar operations into the 76–81 GHz band, the *NPRM* noted that there is little or no use of vehicular radars in the 16.2–17.7 GHz and 46.7–46.9 GHz bands, and sought comment on modifying the Commission's part 15 rules to no longer approve vehicular radar devices for operation in these bands. Since no commenters opposed this suggestion, the Commission deleted the references to vehicular radar operations in the 16.2–17.7 GHz and 46.7–46.9 GHz bands from the Commission's part 15 rules and ceased accepting applications for equipment certification of such devices effective upon the adoption of the *Report and Order.* It prohibited the continued manufacture, importation, marketing, sale, and installation for use in the United States of such equipment in the 16.2–17.7 GHz band under the sole existing equipment authorization, FCC ID No. L2C0004TR. However, it grandfathered, for the life of the equipment, any vehicular radars that are already installed or in use under this authorization, thus allowing such systems to continue operating for the life of the vehicle or until the supply of existing equipment necessary for maintenance is exhausted.

6. As proposed in the *NPRM,* the Commission also phased out unlicensed wideband radars authorized under § 15.252 to operate in the 23.12–29 GHz and ultra-wideband (UWB) radars authorized under § 15.515 to operate in the 22–29 GHz band (collectively, ''unlicensed 24 GHz wideband and UWB vehicular radars''). In response to commenters' concerns that ceasing certification of new unlicensed 24 GHz wideband and UWB vehicular radars beginning 30 days after publication of the final rules in the **Federal Register**, as proposed in the *NPRM,* would be insufficiently short, the Commission decided it will not certify new unlicensed 24 GHz wideband and UWB vehicular radar equipment on or after one year from the date of publication of the *Report and Order* in the **Federal Register**. In response to commenters' suggestions to, at a minimum, harmonize the phase-out of unlicensed 24 GHz wideband and UWB vehicular radars with the phase-out adopted for 24 GHz vehicular radars in the European Union (EU), the Commission decided to allow the manufacture, importation, marketing, sale, and installation of, as well as Class II permissive changes for, previously certified unlicensed 24 GHz wideband and UWB vehicular radar devices until January 1, 2022, consistent with the EU transition plan for 24 GHz vehicular radars. After January 1, 2022, the manufacture, importation, marketing, sale, and installation of, and Class II permissive changes for, these devices for use in the United States, with one limited exception regarding sale and installation for the repair/replacement of defective, damaged, or malfunctioning equipment, will not be permitted.

7. However, as proposed in the *NPRM,* the Commission decided to permit unlicensed 24 GHz wideband and UWB vehicular radars that are already installed or in use by January 1, 2022 to continue to operate in the vehicle. In that regard, the Commission provided a narrow exception to the phase-out requirements to permit, for the life of the vehicle, the continued sale and installation of unlicensed 24 GHz wideband and UWB radar devices for the exclusive purpose of repairing or replacing defective, damaged, or potentially malfunctioning equipment installed on or before January 1, 2022. This exception is available only when it is not possible to repair or replace the radar equipment designed to operate in the 24 GHz band with radar equipment designed to operate in the 76–81 GHz band, and is limited to the repair and replacement of unlicensed 24 GHz wideband and UWB vehicular radar equipment that has been certified for operation in the 24 GHz band. The Commission expects manufacturers to draw on existing stock of equipment that has been approved before January 1, 2022, but it will address requests for additional relief (*e.g.,* manufacture, importation, or product redesign) on a case-by-case basis.

8. The Commission clarified that the proposal with regard to phasing out use of the 22–29 GHz band for wideband and UWB vehicular radar operations that operate under §§ 15.252 and 15.515 of the rules was not intended to apply to unlicensed radars that operate at 24.075–24.175 GHz and 24.0–24.25 GHz under §§ 15.245 and 15.249 of the rules, respectively. These rules, which are not being modified, authorize a wide variety of devices that include, but are not limited to, vehicular-specific radars. As such, the Commission will continue to certify radars that operate under these rules and they can continue to be used in vehicular applications.

C. Fixed and Other Mobile Radar Operations in the 76–81 GHz Band

9. *Fixed Radars Operations.* The *NPRM* proposed to adopt rules that would permit fixed infrastructure radar applications in all or part of the 76–81 GHz band if there was sufficient demand for such uses and studies could support sharing between vehicular and non-vehicular radar applications in the band. Although several commenters expressed interest in deploying fixed radar applications in the 76–81 GHz band at any location, there was substantial disagreement as to whether such applications could successfully coexist with vehicular radars. Many commenters opposed allowing fixed radar operations in the 76–81 GHz band, citing potential interference that could compromise the safe operation of vehicular radar systems. Although commenters asserted that they expected fixed radar manufacturers to design equipment that is technically identical to vehicular radars, the Commission stated that it could not guarantee that this would happen in practice since it neither proposed nor developed a record for the Commission to mandate device specifications and guidelines. Therefore, to prevent non-vehicular fixed radar applications outside of airport locations from causing harmful interference to vehicular radars and provide a more certain environment for the successful migration of vehicular radars to the 76–81 GHz band, the Commission decided to maintain the

existing prohibition on non-vehicular fixed radar operations outside of airport air operations areas.

10. However, the Commission recognized the possibility that there may be situations in which fixed radars might be compatible with vehicular radars in the 76–81 GHz band, and did not foreclose exploration of such scenarios. The Commission acknowledged that, under careful coordination, it might be possible for fixed radars to operate in the band at carefully selected locations without causing harmful interference to vehicular radars, but noted that there was insufficient information in the record to develop the specific criteria for a successful coordination process. The Commission stated that it is open to the possibility that specific, limited fixed uses of 76–81 GHz radars outside of airport locations may be possible so long as it can be convinced that such use would not cause harmful interference to vehicular radar operations in the band.

11. *Airport Radar Operations.* Prior to adoption of the *Report and Order,* unlicensed FOD detection radar operations were operating as fixed devices in the 76–77 GHz band under part 15 of the rules, and could be authorized as either fixed or mobile devices on a licensed basis under the Commission's part 90 rules in the 78–81 GHz band, in airport air operations areas only. As proposed in the *NPRM* and supported by the record, the Commission decided to permit fixed and mobile FOD detection radar operations throughout the entire 76–81 GHz band on airport grounds only, under the same technical requirements as those provided for such operations in the 76–77 GHz band in part 15 of the Commission's rules. To minimize the potential for harmful interference to vehicular radar operations from expanded FOD detection radar operations, the Commission maintained the limitation that FOD detection radar operations occur only in airport locations that avoid illumination of public roadways (*i.e.,* in airport air operations areas). This restriction will provide geographic separation between airport-based radar operations and vehicular radar operations on public roads, avoiding any possibility of harmful interference to vehicular radar operations in the 76–81 GHz band. As proposed in the *NPRM* and supported by the record, the Commission grandfathered for the life of the equipment, or until the supply of existing equipment necessary for maintenance is exhausted, any FOD detection radars that are already installed or in use. If entities want to operate existing FOD detection radars in the 77–78 GHz band, which has not previously been available for FOD detection radar use, such equipment would first have to be certified under the Commission's equipment authorization procedures to operate in the 77–78 GHz band under the part 95 rules.

12. The Commission also permitted the use of aircraft-mounted radar applications, referred to as ''wingtip radars,'' in the entire 76–81 GHz band with the same technical rules as FOD detection radars, as long as they are used in airport air operations areas while aircraft (including helicopters) are on the ground. These radars will be used to prevent and mitigate the severity of aircraft wingtip collisions while planes move between airport gates and runways. The Commission agreed with commenters that aircraft-mounted radar applications can help protect aircraft during taxiing and ground maneuvering, improve airport operations, and provide significant benefits to the airline industry and traveling public, while still protecting vehicular radars from harmful interference.

13. Based on the potential for airborne radar operations to interfere with RAS operations, the Commission decided not to permit the use of aircraft-mounted radars when the aircraft (or helicopter) is airborne. To provide greater assurance that parties will comply with the ground-based restriction for aircraft-mounted radars, the Commission also decided to require that aircraft-mounted radars include an automatic mechanism that discontinues all 76–81 GHz radar functions while the aircraft is airborne, which no commenters objected to, and one commenter indicated is technically feasible.

D. Radar Operations in the 76–81 GHz Band Under Part 95 of the Commission's Rules

14. As proposed in the *NPRM* and supported by the majority of commenters, the Commission consolidated 76–81 GHz radar operations, except for Level Probing Radars (LPRs), under part 95 of the Commission's rules to be licensed-by-rule and protected from interference. Radar applications operating in the 76–81 GHz range will now be governed by Subpart M, The 76–81 GHz Radar Service, in part 95 of the rules. LPRs, which are authorized by § 15.256 to operate in a variety of frequency ranges, including the 75–85 GHz band, and can coexist with vehicular radar operations, will remain authorized to operate on an unlicensed basis.

15. A licensed-by-rule approach under part 95 will provide a level of interference protection to 76–81 GHz radar operations that the Commission's part 15 rules cannot provide since unlicensed users must accept interference from licensed and unlicensed users, whereas under part 95, primary licensed users are protected from interference from secondary and unlicensed users. A licensed-by-rule approach will also reduce the application and licensing burdens associated with authorizing radar operations under an individual license basis, and create time and cost efficiencies for deployment of these important services. Given that FOD detection radar operations are restricted to airport air operations areas that do not have public vehicle access, and considering the narrow beamwidths, highly directional antennas, and large signal propagation losses at relatively short distances of radar operations in the 76–81 GHz band, the Commission saw no need to require licensed FOD detection radars to coordinate with other licensed services or exclude FOD detection radars from part 95 regulation.

16. *Technical Rules.* As proposed in the *NPRM,* the Commission adopted technical rules for the newly expanded radar band that mirrored those currently provided for unlicensed vehicular radars and FOD detection radars in the 76–77 GHz band under the part 15 rules. Specifically, the Commission adopted the same average (50 dBm) and peak (55 dBm) EIRP emissions limits for radar applications in the entire 76–81 GHz band as is currently specified in the part 15 rules for unlicensed vehicular radars in the 76–77 GHz band. The Commission also adopted other technical rules for the newly expanded radar band that mirrored those currently provided under part 15, including unwanted emissions limits, equipment certification, and radiofrequency exposure evaluation. Consistent with the *NPRM,* the new part 95 rules do not specify distinct spectrum blocks in the 76–81 GHz band for particular radar operations such as LRR and SRR, or FOD detection and aircraft-mounted radars. Instead, the Commission chose to rely on market forces and standardization processes to drive radars use of the band in accordance with application needs and the state of the technology, and decided that interested parties can determine whether particular segments of the 76–81 GHz band should be designated exclusively for LRR or SRR applications, or for FOD detection or aircraft-mounted

radars. Neither LRR applications nor aircraft-mounted radars are restricted to operating within a one-gigahertz block of spectrum within the 76–81 GHz band, as suggested by some commenters.

17. Vehicular and FOD detection radars currently certified under part 15 to operate in the 76–77 GHz band need not be recertified under part 95 to continue to operate in the band. These devices may continue their operations, but will now do so on a licensed-by-rule basis and be entitled to interference protection from amateur operations in the 76–81 GHz band. Any changes for such previously certified devices will need to comply with the applicable part 95 rules.

III. Procedural Matters

A. Paperwork Reduction Act Analysis

18. This document does not contain any new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13.

B. Congressional Review Act

19. The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

C. Final Regulatory Flexibility Act

20. The Regulatory Flexibility Act of 1980 (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA), set forth in Appendix B of the *Report and Order* concerning the possible impact of the rule changes.

IV. Ordering Clauses

21. Accordingly, *it is ordered* that pursuant to sections 1, 2, 4(i), 301, 302(a), and 303(f) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 301, 302(a), and 303(f), the *Report and Order* in ET Docket No. 15–26 is hereby adopted.

22. *It is further ordered* that parts 1, 2, 15, 90, 95, and 97 of the Commission's rules, 47 CFR parts 1, 2, 15, 90, 95, and 97 *are amended,* effective October 20, 2017, except as otherwise specified.

List of Subjects

47 CFR Parts 1 and 2

Radio, Telecommunications.

47 CFR Parts 15, 90, 95, and 97

Communications equipment, Radar, Radio.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 2, 15, 90, 95, and 97 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303(r), 309, 332, 1403, 1404, 1451, 1452, and 1455.

■ 2. Amend § 1.1307 by adding an entry for ''76–81 GHz Radar Service (part 95)'' above the entry for ''Amateur Radio Service (part 97)'' in Table 1 in paragraph (b)(1) and revising paragraphs (b)(2)(i) and (ii) to read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) * * *

(1) * * *

TABLE 1—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (title 47 CFR rule part)	Evaluation required if:
* * * * *	
76–81 GHz Radar Service (part 95).	All included.
* * * * *	

(2)(i) Mobile and portable transmitting devices that operate in the Commercial Mobile Radio Services pursuant to part 20 of this chapter; the Cellular Radiotelephone Service pursuant to part 22 of this chapter; the Personal Communications Services (PCS) pursuant to part 24 of this chapter; the Satellite Communications Services pursuant to part 25 of this chapter; the Miscellaneous Wireless Communications Services pursuant to part 27 of this chapter; the Upper Microwave Flexible User Service pursuant to part 30 of this chapter; the Maritime Services (ship earth stations only) pursuant to part 80 of this chapter; the Specialized Mobile Radio Service, the 4.9 GHz Band Service, and the 3650 MHz Wireless Broadband Service pursuant to part 90 of this chapter; the Wireless Medical Telemetry Service (WMTS), the Medical Device Radiocommunication Service (MedRadio), and the 76–81 GHz Band Radar Service pursuant to part 95 of this chapter; and the Citizens Broadband Radio Service pursuant to part 96 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 2.1091 and 2.1093 of this chapter.

(ii) Unlicensed PCS, unlicensed NII, and millimeter-wave devices are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 15.255(g), 15.257(g), 15.319(i), and 15.407(f) of this chapter.

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 4. Amend § 2.106, the Table of Frequency Allocations, as follows:

■ a. Revise page 62.

■ b. Under ''International Footnotes,'' add, in numerical order, footnote 5.559B.

The revision and addition read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

BILLING CODE 6712–01–P

BILLING CODE 6712–01–C

* * * * *

76-77.5 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) <AMDPAR>5.149	76-81 RADIO ASTRONOMY RADIOLOCATION Space research (space-to-Earth)	76-77 RADIO ASTRONOMY RADIOLOCATION Amateur Space research (space-to-Earth) US342	RF Devices (15) Personal Radio (95) Amateur Radio (97)
		77-81 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth)	
77.5-78 AMATEUR AMATEUR-SATELLITE RADIOLOCATON 5.559B Radio astronomy Space research (space-to-Earth) <*AMDPAR*>*5*.149			
78-79 RADIOLOCATION Amateur Amateur-satellite Radio astronomy Space research (space-to-Earth) <*AMDPAR*>*5*.149 5.560			
79-81 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) <*AMDPAR*>*5*.149	<AMDPAR>5.560 US342	<AMDPAR>5.560 US342	
81-84 FIXED 5.338A FIXED-SATELLITE (Earth-to-space) MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY Space research (space-to-Earth) <*AMDPAR*>*5*.149 5.561A	81-84 FIXED FIXED-SATELLITE (Earth-to-space) US297 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY Space research (space-to-Earth) US161 US342 US389		RF Devices (15) Fixed Microwave (101)
84-86 FIXED 5.338A FIXED-SATELLITE (Earth-to-space) 5.561B MOBILE RADIO ASTRONOMY <*AMDPAR*>*5*.149	84-86 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY US161 US342 US389		Page 62

International Footnotes

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5.559B The use of the frequency band 77.5–78 GHz by the radiolocation service shall be limited to short-range radar for ground-based applications, including automotive radars. The technical characteristics of these radars are provided in the most recent version of Recommendation ITU–R M.2057. The provisions of No. 4.10 do not apply. (WRC–15)

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■ 5. Amend § 2.1091 by revising paragraphs (c)(1) introductory text and (c)(2) to read as follows:

§ 2.1091 Radiofrequency radiation exposure evaluation: mobile devices.

* * * * *

(c)(1) Mobile devices that operate in the Commercial Mobile Radio Services pursuant to part 20 of this chapter; the Cellular Radiotelephone Service pursuant to part 22 of this chapter; the Personal Communications Services pursuant to part 24 of this chapter; the Satellite Communications Services pursuant to part 25 of this chapter; the Miscellaneous Wireless Communications Services pursuant to part 27 of this chapter; the Upper Microwave Flexible Use Service pursuant to part 30 of this chapter; the Maritime Services (ship earth station devices only) pursuant to part 80 of this chapter; the Specialized Mobile Radio Service, and the 3650 MHz Wireless Broadband Service pursuant to part 90 of this chapter; the 76–81 GHz Band Radar Service pursuant to part 95 of this chapter; and the Citizens Broadband Radio Service pursuant to part 96 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use if:

* * * * *

(2) Unlicensed personal communications service devices, unlicensed millimeter-wave devices, and unlicensed NII devices authorized under §§ 15.255(g), 15.257(g), 15.319(i), and 15.407(f) of this chapter are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use if their ERP is 3 watts or more or if they meet the definition of a portable device as specified in § 2.1093(b) requiring evaluation under the provisions of that section.

* * * * *

■ 6. Amend § 2.1093 by revising paragraph (c)(1) to read as follows:

§ 2.1093 Radiofrequency radiation exposure evaluation: portable devices.

* * * * *

(c)(1) Portable devices that operate in the Cellular Radiotelephone Service pursuant to part 22 of this chapter; the Personal Communications Service (PCS) pursuant to part 24 of this chapter; the Satellite Communications Services pursuant to part 25 of this chapter; the Miscellaneous Wireless Communications Services pursuant to part 27 of this chapter; the Upper Microwave Flexible Use Service pursuant to part 30 of this chapter; the Maritime Services (ship earth station devices only) pursuant to part 80 of this chapter; the Specialized Mobile Radio Service, the 4.9 GHz Band Service, and the 3650 MHz Wireless Broadband Service pursuant to part 90 of this chapter; the Wireless Medical Telemetry Service (WMTS), the Medical Device Radiocommunication Service (MedRadio), and the 76–81 GHz Band Radar Service pursuant to subparts H, I, and M of part 95 of this chapter, respectively; unlicensed personal communication service, unlicensed NII devices and millimeter-wave devices authorized under §§ 15.255(g), 15.257(g), 15.319(i), and 15.407(f) of this chapter; and the Citizens Broadband Radio Service pursuant to part 96 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use.

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PART 15—RADIO FREQUENCY DEVICES

■ 7. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

■ 8. Amend § 15.37 by adding paragraphs (l) through (p) to read as follows:

§ 15.37 Transition provisions for compliance with the rules.

* * * * *

(l) The certification of wideband vehicular radars designed to operate in the 23.12–29 GHz band under § 15.252 and ultra-wideband vehicular radars designed to operate in the 22–29 GHz band under § 15.515 shall not be permitted on or after September 20, 2018.

(m) The manufacture, importation, marketing, sale, and installation of wideband or ultra-wideband vehicular radars that are designed to operate in the 23.12–29 GHz band under § 15.252 and/or in the 22–29 GHz band under § 15.515 shall not be permitted after January 1, 2022. Notwithstanding the foregoing, sale and installation of such radars is permitted, for the life of the vehicle, when the following conditions have been met:

(1) The sale and installation is for the exclusive purpose of repairing or replacing defective, damaged, or potentially malfunctioning radars that are designed to operate in the 23.12–29 GHz band under § 15.252 and/or in the 22–29 GHz band under § 15.515;

(2) The equipment being repaired or replaced has been installed in the vehicle on or before January 1, 2022; and

(3) It is not possible to replace the vehicular radar equipment designed to operate in the 23.12–29 GHz and/or 22–29 GHz bands with vehicular radar equipment designed to operate in the 76–81 GHz band.

(n) Wideband or ultra-wideband vehicular radars operating in the 23.12–29 GHz band under § 15.252 and/or in the 22–29 GHz band under § 15.515 that are already installed or in use may continue to operate in accordance with their previously obtained certification. Class II permissive changes for such equipment shall not be permitted after January 1, 2022.

(o) Applicable July 13, 2017, the certification, manufacture, importation, marketing, sale, and installation of field disturbance sensors that are designed to operate in the 16.2–17.7 GHz and 46.7–46.9 GHz bands shall not be permitted. Field disturbance sensors already installed or in use in the 16.2–17.7 GHz band may continue to operate in accordance with their previously obtained certification. Class II permissive changes shall not be permitted for such equipment.

(p) Effective October 20, 2017, the certification under this part of vehicular radars and fixed radar systems used in airport air operations areas that are designed to operate in the 76–77 GHz band shall not be permitted. Vehicular radars and fixed radar systems used in airport air operations areas operating in the 76–77 GHz band that are already installed or in use may continue to operate in accordance with their previously obtained certification. Any future certification, or any change of already issued certification and operations of such equipment, shall be under part 95, subpart M, of this chapter.

■ 9. Amend § 15.252 by revising the section heading and paragraphs (a) introductory text and (a)(1), removing paragraph (b)(1), redesignating paragraphs (b)(2) through (6) as paragraphs (b)(1) through (5), revising newly redesignated paragraphs (b)(2)

and (3), and adding paragraph (d) to read as follows:

§ 15.252 Operation of wideband vehicular radar systems within the band 23.12–29.0 GHz.

(a) Operation under this section is limited to field disturbance sensors that are mounted in terrestrial transportation vehicles. Terrestrial use is limited to earth surface-based, non-aviation applications.

(1) The −10 dB bandwidth of the fundamental emissions shall be located within the 23.12–29.0 GHz band, exclusive of the 23.6–24.0 GHz restricted band, as appropriate, under all conditions of operation including the effects from stepped frequency, frequency hopping or other modulation techniques that may be employed as well as the frequency stability of the transmitter over expected variations in temperature and supply voltage.

* * * * *

(b) * * *

(2) In addition to the radiated emissions limits specified in the table in paragraph (b)(1) of this section, transmitters operating under the provisions of this section shall not exceed the following RMS average EIRP limits when measured using a resolution bandwidth of no less than 1 kHz:

Frequency in MHz	EIRP in dBm
1164–1240	−85.3
1559–1610	−85.3

(3) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs and this 50 MHz bandwidth must be contained within the 24.05–29.0 GHz band. The peak EIRP limit is 20 log (RBW/50) dBm where RBW is the resolution bandwidth in MHz employed by the measurement instrument. RBW shall not be lower than 1 MHz or greater than 50 MHz. Further, RBW shall not be greater than the −10 dB bandwidth of the device under test. For transmitters that employ frequency hopping, stepped frequency or similar modulation types, measurement of the −10 dB minimum bandwidth specified in this paragraph shall be made with the frequency hop or step function disabled and with the transmitter operating continuously at a fundamental frequency. The video bandwidth of the measurement instrument shall not be less than RBW. The limit on peak emissions applies to the 50 MHz bandwidth centered on the frequency at which the highest level radiated emission occurs. If RBW is greater than 3 MHz, the application for certification shall contain a detailed description of the test procedure, the instrumentation employed in the testing, and the calibration of the test setup.

* * * * *

(d) Wideband vehicular radar systems operating in the 23.12–29.0 GHz band are subject to the transition provisions of § 15.37(l) through (n).

§ 15.253 [Removed and Reserved]

■ 10. Remove and reserve § 15.253.

■ 11. Amend § 15.515 by adding paragraph (h) to read as follows:

§ 15.515 Technical requirements for vehicular radar systems.

* * * * *

(h) UWB vehicular systems operating in the 22–29 GHz band are subject to the transition provisions of § 15.37(l) through (n).

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 12. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

§ 90.103 [Amended]

■ 13. Amend § 90.103 by removing the entry ''78,000–81,000'' in the table in paragraph (b).

PART 95—PERSONAL RADIO SERVICES

■ 14. The authority citation for part 95 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302(a), 303, and 307(e).

■ 15. Revise § 95.347 to read as follows:

§ 95.347 Automatic control.

Operation of Personal Radio Services stations under automatic control is prohibited, unless otherwise allowed for a particular Personal Radio Service by rules in the subpart governing that specific service. *See, e.g.,* §§ 95.1747, 95.2347, 95.2547, 95.3347.

■ 16. Add subpart M, consisting of §§ 95.3301 through 95.3385, to read as follows:

Subpart M—The 76–81 GHz Band Radar Service

Administrative Rules

Sec.

95.3301 Scope.
95.3303 Definitions, the 76–81 GHz Band Radar Service.
95.3305 Radar operator eligibility in the 76–81 GHz Band.

Operating Rules

95.3331 Permissible 76–81 GHz Band Radar Service uses.
95.3333 Airborne use of 76–81 GHz Band Radar Service is prohibited.
95.3347 76–81 GHz Band Radar Service automatic control.

Technical Rules

95.3361 Certification.
95.3367 76–81 GHz Band Radar Service radiated power limits.
95.3379 76–81 GHz Band Radar Service unwanted emissions limits.
95.3385 76–81 GHz Band Radar Service RF exposure evaluation.

Subpart M—The 76–81 GHz Band Radar Service

Administrative Rules

§ 95.3301 Scope.

This subpart sets out the regulations that apply to radar systems operating in the 76–81 GHz band. This subpart does not apply to Level Probing Radars that operate under part 15 of this title.

§ 95.3303 Definitions, the 76–81 GHz Band Radar Service.

(a) *Air operations area.* See § 87.5 of this chapter.

(b) *Field disturbance sensor.* See § 15.5(l) of this chapter.

(c) *Foreign object debris (FOD) detection radar.* A radar device designed to detect foreign object debris in airport air operations areas and to monitor aircraft as well as service vehicles on taxiways, and other airport vehicle service areas that have no public vehicle access.

(d) *Radar.* See § 2.1(c) of this chapter.

§ 95.3305 Radar operator eligibility in the 76–81 GHz Band.

Subject to the requirements of §§ 95.305 and 95.307, any person is eligible to operate a radar in the 76–81 GHz band without an individual license; such operation must comply with all applicable rules in this subpart.

Operating Rules

§ 95.3331 Permissible 76–81 GHz Band Radar Service uses.

Radar systems operating in the 76–81 GHz band may operate as vehicular radars, or as fixed or mobile radars in airport air operations areas, including but not limited to FOD detection radars and aircraft-mounted radars for ground use only.

§ 95.3333 Airborne use of 76–81 GHz Band Radar Service is prohibited.

Notwithstanding the provisions of § 95.3331, 76–81 GHz Band Radar Service is prohibited aboard aircraft in flight. Aircraft-mounted radars shall be equipped with a mechanism that will prevent operations once the aircraft becomes airborne.

§ 95.3347 76–81 GHz Band Radar Service automatic control.

Notwithstanding the provisions of § 95.347, 76–81 GHz Band Radar Service operations may be conducted under manual or automatic control.

Technical Rules

§ 95.3361 Certification.

Radar equipment operating in the 76–81 GHz band shall be certificated in accordance with this subpart and subpart J of part 2 of this chapter.

§ 95.3367 76–81 GHz Band Radar Service radiated power limits.

The fundamental radiated emission limits within the 76–81 GHz band are expressed in terms of Equivalent Isotropically Radiated Power (EIRP) and are as follows:

(a) The maximum power (EIRP) within the 76–81 GHz band shall not exceed 50 dBm based on measurements employing a power averaging detector with a 1 MHz Resolution Bandwidth (RBW).

(b) The maximum peak power (EIRP) within the 76–81 GHz band shall not exceed 55 dBm based on measurements employing a peak detector with a 1 MHz RBW.

§ 95.3379 76–81 GHz Band Radar Service unwanted emissions limits.

(a) The power density of any emissions outside the 76–81 GHz band shall consist solely of spurious emissions and shall not exceed the following:

(1) Radiated emissions below 40 GHz shall not exceed the field strength as shown in the following emissions table.

Frequency (MHz)	Field strength (microvolts/ meter)	Measurement distance (meters)
0.009–0.490	2400/F(kHz)	300
0.490–1.705	24000/F(kHz)	30
1.705–30.0	30	30
30–88	100	3
88–216	150	3
216–960	200	3
Above 960	500	3

(i) In the emissions table in paragraph (a)(1) of this section, the tighter limit applies at the band edges.

(ii) The limits in the table in paragraph (a)(1) of this section are based on the frequency of the unwanted emissions and not the fundamental frequency. However, the level of any unwanted emissions shall not exceed the level of the fundamental frequency.

(iii) The emissions limits shown in the table in paragraph (a)(1) of this section are based on measurements employing a CISPR quasi-peak detector except for the frequency bands 9.0–90.0 kHz, 110.0–490.0 kHz, and above 1000 MHz. Radiated emissions limits in these three bands are based on measurements employing an average detector with a 1 MHz RBW.

(2) The power density of radiated emissions outside the 76–81 GHz band above 40.0 GHz shall not exceed the following, based on measurements employing an average detector with a 1 MHz RBW:

(i) For radiated emissions outside the 76–81 GHz band between 40 GHz and 200 GHz from field disturbance sensors and radar systems operating in the 76–81 GHz band: 600 pW/cm^2 at a distance of 3 meters from the exterior surface of the radiating structure.

(ii) For radiated emissions above 200 GHz from field disturbance sensors and radar systems operating in the 76–81 GHz band: 1000 pW/cm^2 at a distance of 3 meters from the exterior surface of the radiating structure.

(3) For field disturbance sensors and radar systems operating in the 76–81 GHz band, the spectrum shall be investigated up to 231.0 GHz.

(b) Fundamental emissions must be contained within the frequency bands specified in this section during all conditions of operation. Equipment is presumed to operate over the temperature range −20 to +50 degrees Celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

§ 95.3385 76–81 GHz Band Radar Service RF exposure evaluation.

Regardless of the power density levels permitted under this subpart, devices operating under the provisions of this subpart are subject to the radiofrequency radiation exposure requirements specified in §§ 1.1307(b), 2.1091, and 2.1093 of this chapter, as appropriate. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

PART 97—AMATEUR RADIO SERVICE

■ 17. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended: 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

■ 18. Amend § 97.303 by revising paragraphs (c) and (f) and removing and reserving paragraph (s) to read as follows:

§ 97.303 Frequency sharing requirements.

* * * * *

(c) Amateur stations transmitting in the 76–81 GHz segment, the 136–141 GHz segment, or the 241–248 GHz segment must not cause harmful interference to, and must accept interference from, stations authorized by the United States Government, the FCC, or other nations in the radiolocation service.

* * * * *

(f) Amateur stations transmitting in the following segments must not cause harmful interference to radio astronomy stations: 3.332–3.339 GHz, 3.3458–3.3525 GHz, 76–81 GHz, 136–141 GHz, 241–248 GHz, 275–323 GHz, 327–371 GHz, 388–424 GHz, 426–442 GHz, 453–510 GHz, 623–711 GHz, 795–909 GHz, or 926–945 GHz. In addition, amateur stations transmitting in the following segments must not cause harmful interference to stations in the Earth exploration-satellite service (passive) or the space research service (passive): 275–277 GHz, 294–306 GHz, 316–334 GHz, 342–349 GHz, 363–365 GHz, 371–389 GHz, 416–434 GHz, 442–444 GHz, 496–506 GHz, 546–568 GHz, 624–629 GHz, 634–654 GHz, 659–661 GHz, 684–692 GHz, 730–732 GHz, 851–853 GHz, or 951–956 GHz.

* * * * *

(s) [Reserved]

* * * * *

■ 19. Amend § 97.313 by adding paragraph (m) to read as follows:

§ 97.313 Transmitter power standards.

* * * * *

(m) No station may transmit with a peak equivalent isotropically radiated power (EIRP) exceeding 316 W in the 76–81 GHz (4 mm) band.

[FR Doc. 2017–18463 Filed 9–19–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2016–0057; 4500030113]

RIN 1018–BB54

Endangered and Threatened Wildlife and Plants; Threatened Species Status for the Iiwi (Drepanis coccinea)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened status under the Endangered Species Act of 1973, as amended (Act), for the iiwi (*Drepanis coccinea*), a bird species from the Hawaiian Islands. The effect of this regulation is to add this species to the Federal List of Endangered and Threatened Wildlife.

DATES: This rule becomes effective October 20, 2017.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* and *http://www.fws.gov/pacificislands.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, such as the species status report, are available for public inspection at *http://www.regulations.gov.* Comments, materials, and documentation that we considered in this rulemaking will be available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850; by telephone at 808–792–9400; or by facsimile at 808–792–9581.

FOR FURTHER INFORMATION CONTACT: Mary Abrams, Field Supervisor, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850; by telephone (808–792–9400); or by facsimile (808–792–9581). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, 16 U.S.C. 1531 *et seq.,* a species or subspecies may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Critical habitat shall be designated, to the maximum extent prudent and determinable, for any species determined to be an endangered or threatened species under the Act.

This rule finalizes the listing of the iiwi (*Drepanis coccinea*) as threatened under the Act because of current and future threats, and listing can only be done by issuing a rule. The iiwi no longer occurs across much of its historical range, and faces a variety of threats in the form of diseases and impacts to its remaining habitat.

Delineation of critical habitat requires, within the geographical area occupied by the species, identification of the physical or biological features essential to the species' conservation. A careful assessment of the biological needs of the species and the areas that may have the physical or biological features essential for the conservation of the species and that may require special management considerations or protections, and thus qualify for designation as critical habitat, is particularly complicated in this case by the ongoing and projected effects of climate change and will require a thorough assessment. We require additional time to analyze the best available scientific data in order to identify specific areas appropriate for critical habitat designation and to analyze the impacts of designating such areas as critical habitat. Accordingly, we find designation of critical habitat for the iiwi to be ''not determinable'' at this time.

What this document does. This document lists the iiwi as a threatened species. We previously published a 90-day finding and a 12-month finding and proposed listing rule for the iiwi. Those documents assessed all available information regarding status of and threats to the iiwi.

The basis for our action. Under the Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. We have determined that the primary threats to the iiwi are its susceptibility to avian malaria (Factor C) and the expected reduction in disease-free habitat as a result of increased temperatures caused by climate change (Factor E). Although not identified as primary threat factors, rapid ohia death, a fungal disease that kills the tree species required by iiwi for nesting and foraging, and impacts from nonnative invasive plants and feral ungulates, contribute to the degradation and curtailment of the iiwi's remaining, disease-free native ohia forest habitat, exacerbating threats to the species' viability.

Peer review and public comment. We sought comments on our proposal from eight independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We also considered all comments and information received during the public comment period.

A species status report for the iiwi was prepared by a team of Service biologists, with the assistance of scientists from the U.S. Geological Survey's (USGS) Pacific Islands Ecosystems Research Center and the Service's Pacific Islands Climate Change Cooperative. We also obtained review and input from experts familiar with avian malaria and avian genetics. The species status report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the past, present, and future threats to the iiwi. The final species status report, revised in response to peer reviewer comments, and other materials relating to this proposal can be found at *http://www.regulations.gov,* at Docket No. FWS–R1–ES–2016–0057, or by contacting the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Previous Federal Actions

Please refer to the proposed listing rule, published in the **Federal Register** on September 20, 2016 (81 FR 64414), for previous Federal actions for this species prior to that date. The publication of the proposed listing rule opened a 60-day public comment period that closed on November 21, 2016. We published a public notice of the proposed rule on September 19, 2016. This notice was picked up and published by several local media outlets including the State's largest newspaper, the Honolulu Star Advertiser, as well as the Garden Island Newspaper, Honolulu Civil Beat, and Hawaii News Now.

Summary of Comments and Recommendations

We solicited comments during the 60-day public comment period from September 20, to November 21, 2016 (81 FR 64414). We contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to

comment on the proposal. Notices inviting public comment also were published in four major news outlets in the State. During the comment period, we received a total of nine letters from members of the public. We did not receive any requests for a public hearing. In this final rule, we address only those comments directly relevant to the listing of the iiwi. All nine letters were from individual members of the public. We did not receive any comments from the State of Hawaii.

Public Comments

Of the nine comment letters we received from members of the public, eight expressed general support for our listing the iiwi under the Act, and one commented on a topic unrelated to our proposed rule. None of these letters provided new, substantive information or comments requiring specific response here.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from eight individuals with scientific expertise on the iiwi and its habitat, biological needs, and threats, including familiarity with the geographic region where the iiwi occurs, and principles of conservation biology. We received responses from all eight of these individuals.

In general, all of the peer reviewers agreed that the draft Species Status Report and proposed rule provided an accurate synthesis of the life history of the iiwi and robust analysis of the stressors affecting the species. They further agreed that our conclusions regarding the status of the species were reasonable and scientifically sound. We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the listing of iiwi. Where appropriate, we have incorporated corrections, editorial suggestions, and new literature and other information they provided into both the final species report and final rule. Any substantive comments are discussed below (see also Summary of Changes from Proposed Rule). All of the peer reviews were constructive and thorough; we thank the peer reviewers for their thoughtful assistance.

Comment (1): Two of the peer reviews suggested that we had not sufficiently emphasized the potential importance of avian pox as a threat to the iiwi. Specifically, the reviewers noted that the literature on mosquito-borne diseases affecting native Hawaiian forest birds tends to be focused more on avian malaria due, in part, to the knowledge gaps about the impacts of avian pox and the lack of an accurate, noninvasive diagnostic test for identifying acute active infections and birds that have recovered from infection. The reviewers point out that the two diseases may be acting both individually and synergistically when infections are simultaneous. Although avian malaria has been more thoroughly studied, the peer reviewers felt that the available evidence suggests avian pox may also be a significant source of mortality and pose a greater threat to the iiwi than would be suggested by our analysis.

Our Response: Although our draft Species Status Report pointed to the difficulty in untangling the relationship between the two diseases because of their frequent occurrence together, we agree with the reviewers that we placed more emphasis on the threat posed by avian malaria, in part simply due to the greater amount of scientific information available that clearly links high levels of mortality in iiwi directly to infection with malaria. In our final Species Status Report and this final rule, we have increased emphasis on the possibility that avian pox, both alone and in combination with avian malaria, may have negative, population-level impacts on iiwi.

Comment (2): One reviewer suggested that the ''estimate'' of 50 birds on Oahu reported in the draft Species Status Report is unrealistically high and not based on scientific data; the reviewer stated that based on observations of occasional single birds over the past 15 years, the population is probably much less than 50, perhaps 10 at the most. Likewise for Molokai, the reviewer pointed out that the estimated number of birds from the 1980s is no longer accurate, and there are many fewer than 80 birds on that island.

Our Response: We thank the reviewer for his comments, and have made the corrections as needed in the final Species Status Report. Because the proposed rule did not refer to specific numbers of birds, no associated changes were required in this final rule.

Comment (3): Two peer reviewers provided updated information regarding the impacts and extent of various diseases affecting ohia trees, especially rapid ohia death (also known as ohia wilt, caused by fungi in the genus *Ceratocystis*).

Our Response: We have incorporated these changes into the final Species Status Report and final rule, as appropriate. In particular, we have updated the estimated area infected with rapid ohia death on Hawaii Island to more than 50,000 acres (20,235 hectares) (Hughes 2016, pers. comm.).

Comment (4): One peer reviewer pointed out that, although Paxton *et al.* (2013) stated that the iiwi population on the leeward (Kona) side of Hawaii Island is strongly increasing, they couched those specific results as the inference from a limited dataset. The reviewer suggested that it was important for us to provide a similar caveat with regard to this reported trend in our final Species Status Report and final rule.

Our Response: We agree that this point provides important context for the interpretation of this reported trend, and have provided additional language in the final Species Status Report and in this final rule to more accurately mirror the reported results of Paxton *et al.* 2013.

Comment (5): One peer reviewer suggested that, although it is true that the effects of predation have not been well documented or quantified for the iiwi, there is substantial evidence that predation by nonnative rats, particularly the black rat (*Rattus rattus*), is a serious threat to other Hawaiian forest birds. Although the reviewer acknowledges that predation is difficult to detect and document, particularly in species like the iiwi that nest high in the forest canopy, he believes the available evidence suggests predation by rats is likely also a contributing factor in the decline of the iiwi.

Our Response: We have incorporated additional discussion of the potential impacts of rat predation on the iiwi in this final rule.

Comment (6): Two peer reviewers suggested that we consider the findings of Paxton *et al.* (2016) in a paper published subsequent to the writing of our draft Species Status Report.

Our Response: We have incorporated the results of Paxton *et al.* 2016 into our final Species Status Report and this final rule. This research documents the rapid collapse of the native avian community on the island of Kauai since 2000 as a result of the impacts of mosquito-borne diseases exacerbated by increased ambient temperature. In particular, the projections of Paxton *et al.* (2016) point to the likely extirpation of the iiwi from the island of Kauai by the year 2050 as a consequence of the loss of disease-free habitat on Kauai and consequent exposure to avian malaria and pox. We also updated the reported numbers and range of iiwi on Kauai with the more recent estimates from Paxton *et al.* (2016).

Summary of Changes From Proposed Rule

After consideration of the comments we received during the public comment period and new information published

or obtained since the proposed rule was published, we have made some changes to the final rule. None of these changes affect the determination. We made many small, nonsubstantive changes and corrections (*e.g.,* updating the Background section in response to comments, minor clarifications, and editorial changes) throughout the document. In addition, we made some substantive changes to the information in this final rule in response to peer review, which are summarized here:

(1) We have elevated the identification of avian pox as a potentially important factor contributing to the decline of iiwi in response to mosquito-borne diseases, in addition to the effects of avian malaria;

(2) We have made a more definitive statement about the likely negative effects of rat predation on iiwi (VanderWerf 2016, pers. comm.);

(3) We updated the amount of area on Hawaii Island that is now estimated to be affected by rapid ohia death, which has now increased to more than 50,000 acres (20,235 hectares) (Hughes 2016, pers. comm.);

(4) We have updated our discussion of both the documented and projected declines of native forest birds on the island of Kauai to reflect the recently published work of Paxton *et al.* (2016), which projects the potential extirpation of iiwi from that island by the year 2050 as a consequence of warming temperatures and associated exposure to mosquito-borne diseases.

Status Assessment for the Iiwi

A thorough review of the taxonomy, life history, and ecology of the iiwi (*Drepanis coccinea*) is presented in the Iiwi (*Drepanis coccinea*) Species Status Report, available online at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2016–0057. The species status report documents the results of our comprehensive biological status review for the iiwi, including an assessment of the potential stressors to the species. The species status report does not represent a decision by the Service on whether the iiwi should be listed as a threatened or endangered species under the Act; that decision involves the application of standards within the Act and its implementing regulations and policies. The species report does, however, provide the scientific basis that informs our regulatory decision. We have revised the report in response to comments from peer reviewers, who provided new information, additional references, and minor corrections. None of these changes substantively altered the conclusions we drew from the available information or changed the outcome of our assessment. The following is a summary of the key results and conclusions from the species status report.

Summary of Biological Status

A medium-sized forest bird notable for its iconic bright red feathers, black wings and tail, and a long, curved bill (Fancy and Ralph 1998, p. 2), the iiwi belongs to the family Fringillidae and the endemic Hawaiian honeycreeper subfamily, Drepanidinae (Pratt *et al.* 2009, pp. 114, 122). Iiwi songs are complex with variable creaks (often described as sounding like a ''rusty hinge''), whistles, or gurgling sounds, and they sometimes mimic other birds (Fancy and Ralph 1998, p. 5; Hawaii Audubon Society 2011, p. 97). The species is found primarily in closed canopy, montane wet or montane mesic forests composed of tall stature ohia (*Metrosideros polymorpha*) trees or ohia and koa (*Acacia koa*) tree mixed forest. The iiwi's diet consists primarily of nectar from the flowers of ohia and mamane (*Sophora chrysophylla*), various plants in the lobelia (Campanulaceae) family (Pratt *et al.* 2009, p. 193), and occasionally, insects and spiders (Fancy and Ralph 1998, pp. 4–5; Pratt *et al.* 2009, p. 193).

Although iiwi may breed anytime between October and August (Fancy and Ralph 1998, p. 7–8), the main breeding season occurs between February and June, which coincides with peak flowering of ohia (Fancy and Ralph 1997, p. 2). Iiwi create cup-shaped nests typically within the upper canopy of ohia (Fancy and Ralph 1998, p. 7–8), and breeding pairs defend a small area around the nest and disperse after the breeding season (Fancy and Ralph 1997, p. 2). An iiwi clutch typically consists of two eggs, with a breeding pair raising one to two broods per year (Fancy and Ralph 1998, p. 7–8).

Well known for their seasonal movements in response to the availability of flowering ohia and mamane, iiwi are strong fliers that move long distances following their breeding season to locate nectar sources (Fancy and Ralph 1998, p. 3; Kuntz 2008, p. 1; Guillamet *et al.* 2016, p. 192). The iiwi's seasonal movement to lower elevation areas in search of nectar sources is an important factor in the exposure of the species to avian diseases, particularly malaria (discussed below).

Although historical abundance estimates are not available, the iiwi was considered one of the most common of the native forest birds in Hawaii by early naturalists, described as ''ubiquitous'' and found from sea level to the tree line across all the major islands (Banko 1981, pp. 1–2). Today the iiwi is no longer found on Lanai, and only a few individuals may be found on Oahu, Molokai, and west Maui. Remaining populations of iiwi are largely restricted to forests above approximately 3,937 feet (ft) (1,200 meters (m)) in elevation on Hawaii Island (Big Island), east Maui, and Kauai. As described below, the present distribution of iiwi corresponds with areas that are above the elevation at which the transmission of avian malaria readily occurs (''disease-free'' habitats). The current abundance of iiwi rangewide is estimated at a mean of 605,418 individuals (range 550,972 to 659,864). Ninety percent of all iiwi now occur on Hawaii Island, followed by east Maui (about 10 percent), and Kauai (less than 1 percent) (Paxton *et al.* 2013, p. 10; Paxton *et al.* 2016, p. 2).

Iiwi population trends and abundance vary across the islands. The population on Kauai appears to be in steep decline, with a modeled rate of decrease equivalent to a 92 percent reduction in population over a 25-year period (Paxton *et al.* 2013, p. 10); the total population on Kauai is estimated at a mean of 2,603 birds (range 1,789 to 3,520) (Paxton *et al.* 2016, p. 2). Trends on Maui are mixed, but populations there generally appear to be in decline; East Maui supports an estimated population of 59,859 individuals (range 54,569 to 65,148) (Paxton *et al.* 2013, p. 10). On Hawaii Island, which supports the largest remaining numbers of iiwi at an estimated average of 543,009 individuals (range 516,312 to 569,706), evidence exists for stable or declining populations on the windward side of the island. Strong trends of increase are inferred on the leeward (Kona) side of the island, but these trends should be interpreted with caution because they are based on a limited number of surveys (Paxton *et al.* 2013, pp. 25–26; Camp 2016, pers. comm.). As noted above, iiwi have been extirpated from Lanai, and only a few individual birds have been sporadically detected on the islands of Oahu, Molokai, and on west Maui in recent decades. Of the nine iiwi population regions for which sufficient information is available for quantitative inference, five of those show strong or very strong evidence of declining populations; one, a stable to declining population; one, a stable to increasing population; and two, strong evidence for increasing populations. Four of the nine regions show evidence of range contraction. Overall, based on the most recent surveys (up to 2012), approximately 90 percent of remaining

iiwi are restricted to forest within a narrow band between 4,265 and 6,234 ft (1,300 and 1,900 m) in elevation (Paxton *et al.* 2013, pp. 1, 10–11, and Figure 1) (See the Population Status section of the species status report for details).

Summary of Factors Affecting the Species

The Act directs us to determine whether any species is an endangered species or a threatened species because of any of five various factors affecting its continued existence. Our species status report evaluated many potential stressors to iiwi, particularly direct impacts on the species from introduced diseases, as well as predation by introduced mammals, competition with nonnative birds, climate change, ectoparasites, and the effects of small population size. We also assessed stressors that may affect the extent or quality of the iiwi's required ohia forest habitat, including ohia dieback (a natural phenomenon), ohia rust (a nonnative pathogen), drought, fires, volcanic eruptions, climate change, and particularly rapid ohia death (ROD, also known as ohia wilt; a nonnative pathogen) and habitat alteration by nonnative plants and feral ungulates.

All species experience stressors; we consider a stressor to rise to the level of a threat to the species if the magnitude of the stressor is such that it places the current or future viability of the species at risk. In considering what stressors or factors might constitute threats to a species, we must look beyond the exposure of the species to a particular stressor to evaluate whether the species may respond to that stressor in a way that causes impacts to the species now or is likely to cause impacts in the future. If there is exposure to a stressor and the species responds negatively, the stressor may be a threat. We consider the stressor to be a threat if it drives, or contributes to, the risk of extinction of the species such that the species warrants listing as endangered or threatened as those terms are defined in the Act. However, the identification of stressors that could affect a species negatively may not be sufficient to compel a finding that the species warrants listing. The information must include evidence sufficient to suggest that these stressors are operative threats that act on the species to the point that the species may meet the definition of endangered or threatened under the Act.

Our species status report examines all of the potential stressors to iiwi in detail. Here we describe those stressors that we conclude rise to the level of a threat to the long-term viability of iiwi.

Based on our comprehensive assessment of the status of the iiwi, we conclude that the best scientific data available consistently identifies avian malaria as the primary driver of declines in abundance and distribution of iiwi observed since the turn of the 20th century. This conclusion is supported by the extremely high mortality rate of iiwi (approximately 95 percent) in response to avian malaria, and the disappearance of iiwi from low-elevation ohia forest where it was formerly common and where malaria is prevalent today. Both the life cycle of the mosquito vector and the development and transmission of the malaria parasite are temperature-limited; thus, iiwi are now found primarily in high-elevation forests above 3,937 ft (1,200 m) where malaria prevalence and transmission is only brief and episodic, or nonexistent, under current conditions. The honeycreepers amakihi and apapane appear to be developing some resistance or tolerance to avian malaria (*e.g.,* Woodworth *et al.* 2005, p. 1,531; Atkinson *et al.* 2014, p. 366; Samuel *et al.* 2015, pp. 12–13). In contrast, iiwi have not demonstrated any substantial sign of developing resistance to avian malaria to date and do not appear to be genetically predisposed to evolve resistance (Jarvi *et al.* 2004, pp. 2,164–2,166). As the prevalence of avian malaria increases in association with warmer temperatures (*e.g.,* LaPointe *et al.* 2012, p. 217), the extent and impact of avian diseases upon iiwi are projected to become greatly exacerbated by climate change during this century.

Additionally, on Hawaii Island, where 90 percent of the iiwi currently occur, the recently discovered tree disease, ohia wilt, commonly known in Hawaii as rapid ohia death (ROD), was identified as an emergent source of habitat loss and degradation that has the potential to exacerbate other stressors to ohia forest habitat, as well as reduce the amount of habitat remaining for iiwi in an already limited, disease-free zone contained within a narrow elevation band. Rapid ohia death leads to significant mortality of the ohia that iiwi depend upon for nesting and foraging. This disease is spreading rapidly and has become a matter of urgent concern. If ROD continues to spread across the native ohia forests, it will directly threaten iiwi by eliminating the limited, malaria-free native forest areas that remain for the species.

Based on the analysis in our species status report, invasive, nonnative plants and feral ungulates have major, adverse impacts on ohia forest habitat. Although we did not find that the historical and ongoing habitat alteration by nonnative species is the primary cause of the significant observed decline in iiwi's abundance and distribution, the cumulative impacts to iiwi's habitat, and in particular the activities of feral ungulates, are not insignificant and likely exacerbate the effects of avian malaria. Feral ungulates, particularly pigs (*Sus scrofa*), goats (*Capra hircus*), and axis deer (*Axis axis*), degrade ohia forest habitat by spreading nonnative plant seeds and grazing on and trampling native vegetation, and contributing to erosion (Mountainspring 1986, p. 95; Camp *et al.* 2010, p. 198). Invasive nonnative plants, such as strawberry guava (*Psidium cattleianum*) and albizia trees (*Falcataria moluccana*), prevent or retard regeneration of ohia forest used by iiwi for foraging and nesting. The combined effects of drought and nonnative, invasive grasses have resulted in increased fire frequency and the conversion of mesic ohia woodland to exotic grassland in many areas of Hawaii ((D'Antonio and Vitousek 1992, p. 67; Smith and Tunison 1992, pp. 395–397; Vitousek *et al.* 1997, pp. 7–8; D'Antonio *et al.* 2011, p. 1,617). Beyond alteration of ohia forest, feral pig activities that create mosquito habitat in ohia forest where there would otherwise be very little to none is identified as an important compounding stressor that acts synergistically with the prevalence of malaria and results in iiwi mortality. Although habitat loss and degradation is not, by itself, considered to be a primary driver of iiwi declines, the habitat impacts described above contribute cumulatively to the vulnerability of the species to the threat of avian malaria by degrading the quality and quantity of the remaining disease-free habitat upon which the iiwi depends. In this regard, ROD, discussed above, is a matter of urgent concern as it can further exacerbate and compound effects from the suite of stressors that impact iiwi (see below).

Avian Diseases

The introduction of avian diseases transmitted by the introduced southern house mosquito (*Culex quinquefasciatus*), including avian malaria (caused by the protozoan *Plasmodium relictum*) and avian pox (*Avipoxvirus* sp.), has been a key driving force in both extinctions and extensive declines over the last century in the abundance, diversity, and distribution of many Hawaiian forest bird species, including declines of the iiwi and other endemic honeycreepers (*e.g.,* Warner 1968, entire; Van Riper *et al.* 1986, entire; Benning *et al.* 2002, p.

14,246; Atkinson and LaPointe 2009a, p. 243; Atkinson and LaPointe 2009b, pp. 55–56; Samuel *et al.* 2011, p. 2,970; LaPointe *et al.* 2012, p. 214; Samuel *et al.* 2015, pp. 13–15). Nonnative to Hawaii, the first species of mosquitoes were accidentally introduced to the Hawaiian Islands in 1826, and spread quickly to the lowlands of all the major islands (Warner 1968, p. 104; Van Riper *et al.* 1986, p. 340). Early observations of birds with characteristic lesions suggest that avian pox virus was established in Hawaii by the late 1800s (Warner 1968, p. 106; Atkinson and LaPointe 2009a, p. 55), and later genetic analyses indicate pox was present in the Hawaiian Islands by at least 1900 (Jarvi *et al.* 2008, p. 339). Avian malaria had arrived in Hawaii in the early 20th century (Warner 1968, p. 107; Van Riper *et al.* 1986, pp. 340–341; Atkinson and LaPointe 2009, p. 55; Banko and Banko 2009, p. 52), likely in association with imported cage birds (Yorinks and Atkinson 2000, p. 731), or through the deliberate introduction of nonnative birds to replace the native birds that had by then disappeared from the lowlands (Atkinson and LaPointe 2009a, p. 55).

Avian Malaria

As noted above, avian malaria is a disease caused by the protozoan parasite *Plasmodium relictum;* the parasite is transmitted by the mosquito *Culex quinquefasciatus,* and invades the red blood cells of birds. Birds suffering from malaria infection undergo an acute phase of the disease during which parasitemia, a quantitative measure of the number of *Plasmodium* parasites in the circulating red blood cells, increases steadily. Because the parasite destroys the red blood cells, anemia and decline of physical condition can quickly result. In native Hawaiian forest birds, death may result either directly from the effects of anemia, or indirectly when anemia-weakened birds become vulnerable to predation, starvation, or a combination of other stressors (LaPointe *et al.* 2012, p. 213). Native Hawaiian birds that survive avian malaria remain chronically infected, thus becoming lifetime reservoirs of the disease (Samuel *et al.* 2011, p. 2,960; LaPointe *et al.* 2012, p. 216) and remaining capable of further disease transmission to other native birds. In contrast, nonnative birds in Hawaii are little affected by avian malaria and later become incapable of disease transmission (LaPointe *et al.* 2012, p. 216).

Wild iiwi infected with malaria are rarely captured, apparently because the onset of infection leads to rapid mortality, precluding their capture (Samuel *et al.* 2011, p. 2,967; LaPointe *et al.* 2016, p. 11). However, controlled experiments with captive birds have demonstrated the susceptibility of native Hawaiian honeycreepers to avian malaria; mortality is extremely high in some species, including iiwi, experimentally infected with the disease. As early as the 1960s, experiments with Laysan finches (*Telespiza cantans*) and several other species of native Hawaiian honeycreepers demonstrated 100 percent mortality from malaria in a very short period of time (Warner 1968, pp. 109–112, 118; Fig. 426).

In a study specific to iiwi, Atkinson *et al.* (1995, entire) demonstrated that the species suffers approximately 95 percent mortality when infected with malaria (Atkinson *et al.* 1995, p. S65). All of the exposed iiwi developed infections within 4 days, with only a single male iiwi surviving. Following re-exposure with the same *Plasmodium* isolate after initial infection, no subsequent increase in parasitemia was detected, suggesting a possible development of some immunity (Atkinson *et al.* 1995, p. S66). The authors suggested that iiwi may lack sufficient diversity in the major histocompatibility complex or genetically based immunity traits capable of recognizing and responding to malarial antigens, an important factor in iiwi's susceptibility to introduced disease (Atkinson *et al.* 1995, pp. S65–S66).

Despite extremely high mortality of iiwi from avian malaria in general, the aforementioned study as well as two other studies have demonstrated that a few individuals have survived infection (Van Riper *et al.* 1986, p. 334; Atkinson *et al.* 1995, p. S63; Freed *et al.* 2005, p. 759). If a genetic correlation were identified, it is possible that surviving individuals could serve as a potential source for the evolution of genetic resistance to malaria, although evidence of this is scant to date. Eggert *et al.* (2008, p. 8) reported a slight but detectable level of genetic differentiation between iiwi populations located at mid and high elevation, potentially the first sign of selection acting on these populations in response to disease. Additionally, the infrequent but occasional sighting of iiwi on Oahu indicates a possible developed resistance or tolerance to avian malaria. Moreover, other more common honeycreepers, such as the amakihi and apapane, show signs of developing resistance or tolerance to the disease, as evidenced by molecular studies (*e.g.,* Woodworth *et al.* 2005, p. 1,531; Atkinson *et al.* 2014, p. 366) and their continued distribution at mid and low elevations where mosquitos and malaria transmission persist year-round (*e.g.,* Foster *et al.* 2004, entire; Eggert *et al.* 2008, pp. 7–8).

Despite these observations, there is no indication as of yet that iiwi have developed significant resistance to malaria such that individuals can survive in areas where the disease is strongly prevalent, including all potential low-elevation forest habitat and most mid-elevation forest habitat (Foster *et al.* 2007, p. 4,743; Eggert *et al.* 2008, p. 2). In one study, for example, 4 years of mist-netting effort across extensive areas of Hawaii Island resulted in the capture of a substantial number of iiwi, yet no iiwi were captured in low-elevation forests and only a few were captured in mid-elevation forests (Samuel *et al.* 2015, p. 11). In addition, several studies indicate that iiwi have low genetic variability, and even genetic impediments to a possible evolved resistance to malaria in the future (Jarvi *et al.* 2001, p. 255; Jarvi *et al.* 2004, Table 4, p. 2,164; Foster *et al.* 2007, p. 4,744; Samuel *et al.* 2015, pp. 12–13). For example, Eggert *et al.* (2008, p. 9) noted that gene variations that may confer resistance appear to be rare in iiwi.

Three factors—the homogeneity of a portion of the iiwi genome, the high mortality rate of iiwi in response to avian malaria, and high levels of gene flow resulting from the wide-ranging nature of the species—suggest that iiwi would likely require a significant amount of time for development of genetic resistance to avian malaria, assuming the species retains a sufficiently large reservoir of genetic diversity for a response to natural selection. Genetic studies of iiwi have also noted a dichotomy between the lack of variation in mitochondrial DNA (Tarr and Fleischer 1993, 1995; Fleischer *et al.* 1998; Foster *et al.* 2007, p. 4,743), and maintenance of variation in nuclear DNA (Jarvi *et al.* 2004, p. 2,166; Foster *et al.* 2007, p. 4,744); both attributes suggest that iiwi may have historically experienced a drastic reduction in population size that led to a genetic bottleneck. Studies have also found low diversity in the antigen-binding sites of the iiwi's major histocompatibility complex (that part of an organism's immune system that helps to recognize foreign or incompatible proteins (antigens) and trigger an immune response).

The relationship between temperature and avian malaria is of extreme importance to the current persistence of iiwi and the viability of the species in the future. The development of the

Plasmodium parasite that carries malaria responds positively to increased temperature, such that malaria transmission is greatest in warm, low-elevation forests with an average temperature of 72 °F (22 °C), and is largely absent in high-elevation forests above 4,921 ft (1,500 m) with cooler mean annual temperatures around 57 °F (14 °C) (Ahumada *et al.* 2004, p. 1,167; LaPointe *et al.* 2010, p. 318; Liao *et al.* 2015, p. 4,343). High-elevation forests thus currently serve as disease-free habitat zones for Hawaiian forest birds, including iiwi. Once one of the most common birds in forests throughout the Hawaiian islands, iiwi are now rarely found at lower elevations, and are increasingly restricted to high-elevation mesic and wet forests where cooler temperatures limit both the development of the malarial parasite and mosquito densities (Scott *et al.* 1986, pp. 367–368; Ahumada *et al.* 2004, p. 1,167; LaPointe *et al.* 2010, p. 318; Samuel *et al.* 2011, p. 2,960; Liao *et al.* 2015, p. 4,346; Samuel *et al.* 2015, p. 14).

Temperature also affects the life cycle of the malaria mosquito vector, *Culex quinquefasciatus.* Lower temperatures slow the development of larval stages and can affect the survival of adults (Ahumada *et al.* 2005, pp. 1,165–1,168; LaPointe *et al.* 2012, p. 217). Although closely tied to altitude and a corresponding decrease in temperature, the actual range of mosquitoes varies with season. Generally, as temperature decreases with increasing elevation, mosquito abundance drops significantly at higher altitudes. In the Hawaiian Islands, the mosquito boundary occurs between 4,921 and 5,577 ft (1,500 and 1,700 m) (VanRiper *et al.* 1986, p. 338; LaPointe *et al.* 2012, p. 218). Areas above this elevation are at least seasonally relatively free of mosquitoes; thus, malaria transmission is unlikely at these high elevations under current conditions.

Early on, Ralph and Fancy (1995, p. 741) and Atkinson *et al.* (1995, p. S66) suggested that the seasonal movements of iiwi to lower elevation areas where ohia is flowering may result in increased contact with malaria-infected mosquitoes, which, combined with the iiwi's high susceptibility to the disease, may explain their observed low annual survivorship relative to other native Hawaiian birds. Compounding the issue, other bird species that overlap with iiwi in habitat, including Apapane (*Himatione sanguinea*), are relatively resistant to the diseases and carry both *Plasmodium* and avian pox virus. As reservoirs, they carry these diseases upslope where mosquitoes are less abundant but still occur in numbers sufficient to facilitate and continue transmission to iiwi (Ralph and Fancy 1995, p. 741).

Subsequent studies have confirmed the correlation between risk of malaria infection and iiwi altitudinal migrations, and suggest upper elevation forest reserves in Hawaii may not adequately protect mobile nectarivores such as iiwi. Kuntz (2008, p. 3) found iiwi populations at upper elevation study sites (6,300 ft (1,920 m)) declined during the non-breeding season when birds departed for lower elevations in search of flowering ohia, traveling up to 12 mi (19.4 km) over contiguous mosquito-infested wet forest. Guillamet *et al.* (2016, p. 192) used empirical measures of seasonal movement patterns in iiwi to model how movement across elevations increases the risk of disease exposure, even affecting breeding populations in disease-free areas. La Pointe *et al.* (unpublished data 2015) found that, based on malaria prevalence in all Hawaiian forest birds, species migrating between upper elevations to lower elevations increased their risk of exposure to avian malaria by as much as 27 times. The greater risk was shown to be due to a much higher abundance of mosquitoes at lower elevations, which in turn was attributable at least in part to the higher abundance of pigs and their activities in lower elevation forests (discussed further below).

Avian Pox

Avian pox (or bird pox) is an infection caused by the virus *Avipoxvirus,* which produces large, granular, and eventually dead tissue lesions or tumors on exposed skin or infected lesions on the mouth, trachea, and esophagus of infected birds. Avian pox can be transmitted through cuts or wounds upon physical contact or through the mouth parts of blood-sucking insects such as the mosquito *Culex quinquefasciatus,* the common vector for both the pox virus and avian malaria (LaPointe *et al.* 2012, p. 221). Tumors or lesions caused by avian pox can be crippling for birds, and may result in death. Although not extensively studied, existing data suggest that mortality from avian pox may range from 4 to 10 percent observed in Oahu Elepaio (*Chasiempis ibidis*) (for birds with active lesions) (VanderWerf 2009, p. 743) to 100 percent in Laysan finches (Warner 1968, p. 108). VanderWerf (2009, p. 743) has also suggested that mortality levels from pox may correlate with higher rainfall years, and at least in the case of the Elepaio, observed mortality may decrease over time with a reduction in susceptible birds.

As early as 1902, native birds suffering from avian pox were observed in the Hawaiian Islands, and Warner (1968, p. 106) described reports that epizootics of avian pox ''were so numerous and extreme that large numbers of diseased and badly debilitated birds could be observed in the field.'' As the initial wave of post-European extinctions of native Hawaiian birds was largely observed in the late 1800s, prior to the introduction of avian malaria (Van Riper *et al.* 1986, p. 342), it is possible that avian pox played a significant role, although there is no direct evidence (Warner 1968, p. 106). Molecular work has revealed two genetically distinct variants of the pox virus affecting forest birds in Hawaii that differ in virulence (Jarvi *et al.* 2008, p. 347): One tends to produce fatal lesions, and the other appears to be less severe, based on the observation of recurring pox infections in birds with healed lesions (Atkinson *et al.* 2009, p. 56).

The largest study of avian pox in scope and scale took place between 1977 and 1980, during which approximately 15,000 native and nonnative forest birds were captured and examined for pox virus lesions on Hawaii Island (Van Riper *et al.* 2002, pp. 929–942). The study made several important determinations, including that native forest birds were indeed more susceptible than introduced species, that all species were more likely to be infected during the wet season, and that pox prevalence was greatest at mid-elevation sites approximately 3,937 ft (1,200 m) in elevation, coinciding with the greatest overlap between birds and the mosquito vector. Of the 107 iiwi captured and examined during the study, 17 percent showed signs of either active or inactive pox lesions (Van Riper *et al.* 2002, p. 932). Many studies of avian pox have documented that native birds are frequently infected with both avian pox and avian malaria (Van Riper *et al.* 1986, p. 331; Atkinson *et al.* 2005, p. 537; Jarvi *et al.* 2008, p. 347). This may be due to mosquito transmission of both pathogens simultaneously, because documented immune system suppression by the pox virus renders chronically infected birds more vulnerable to infection by, or a relapse of, malaria (Jarvi *et al.* 2008, p. 347), or due to other unknown factors. The relative frequency with which the two diseases co-occur makes it challenging to disentangle the independent impact of either stressor acting alone (LaPointe *et al.* 2012, p. 221). Although we lack

direct evidence of the degree to which pox may be a specific threat to iiwi or contributing to its decline, both field observations of and limited experimental studies on closely related species of honeycreepers suggests that it may be a significant factor (Warner 1968, pp. 106, 108–109; VanRiper *et al.* 2002, pp. 936–939).

Compounded Impacts—Feral Ungulates Create Habitat for Culex Quinquefasciatus Mosquitoes and Exacerbate Impacts of Disease

It has been widely established that damage to native tree ferns (*Cibotium* spp.) and rooting and wallowing activity by feral pigs create mosquito larval breeding sites in Hawaiian forests where they would not otherwise occur. The porous geology and relative absence of puddles, ponds, and slow-moving streams in most Hawaiian landscapes precludes an abundance of water-holding habitat sites for mosquito larvae; however, *Culex quinquefasciatus* mosquitoes, the sole vector for avian malaria in Hawaii, now occur in great density in many wet forests where their larvae primarily rely on habitats created by pig activity (LaPointe 2006, pp. 1–3; Ahumada *et al.* 2009, p. 354; Atkinson and LaPointe 2009, p. 60; Samuel *et al.* 2011, p. 2,971). Pigs compact volcanic soils and create wallows and water containers within downed, hollowed-out tree ferns, knocked over and consumed for their starchy pith (Scott *et al.* 1986, pp. 365–368; Atkinson *et al.* 1995, p. S68). The abundance of *C. quinquefasciatus* mosquitoes is also much greater in suburban and agricultural areas than in undisturbed native forest, and the mosquito is capable of dispersing up to 1 mile (1.6 kilometers) within closed-canopy native forest, including habitat occupied by the iiwi (LaPointe 2006, p. 3; LaPointe *et al.* 2009, p. 409).

In studies of native forest plots where feral ungulates (including pigs) were removed by trapping and other methods, researchers have demonstrated a correlation in the abundance of *Culex* spp. mosquitoes when comparing pig-free, fenced areas to adjacent sites where feral pig activity is unmanaged. Aruch *et al.* 2007 (p. 574), LaPointe 2006 (pp. 1–3) and LaPointe *et al.* (2009, p. 409; 2012, pp. 215, 219) assert that management of feral pigs may be strategic to managing avian malaria and pox, particularly in remote Hawaiian rain forests where studies have documented that habitats created by pigs are the most abundant and productive habitat for larval mosquitoes. Reduction in mosquito habitat must involve pig management across large landscapes due to the tremendous dispersal ability of *C. quinquefasciatus* and the possibility of the species invading from adjacent areas lacking management (LaPointe 2006, pp. 3–4). The consequences of feral pig activities thus further exacerbate the impacts to iiwi from avian malaria and avian pox, by creating and enhancing larval habitats for the mosquito vector, thereby increasing exposure to these diseases.

Avian Diseases—Summary

The relatively recent introduction of avian pox and avian malaria, in concert with the introduction of the mosquito disease vector, is widely viewed as one of the key factors underlying the loss and decline of native forest birds throughout the Hawaiian Islands. Evolving in the absence of mosquitoes and their vectored pathogens, native Hawaiian forest birds, particularly honeycreepers such as iiwi, lack natural immunity or genetic resistance, and thus are more susceptible to these diseases than are nonnative bird species (van Riper *et al.* 1986, pp. 327–328; Yorinks and Atkinson 2000, p. 737). Researchers consider iiwi one of the most vulnerable species, with an average of 95 percent mortality in response to infection with avian malaria (Atkinson *et al.* 1995, p. S63; Samuel *et al.* 2015, p. 2).

Many native forest birds, including iiwi, are now absent from warm, low-elevation areas that support large populations of disease-carrying mosquitoes, and these birds persist only in relatively disease-free zones in high-elevation forests, above roughly 4,921 to 5,577 ft (1,500 to 1,700 m), where both the development of the malarial parasite and the density of mosquito populations are held in check by cooler temperatures (Scott *et al.* 1986, pp. 85, 100, 365–368; Woodworth *et al.* 2009, p. 1,531; Liao *et al.* 2015, pp. 4,342–4,343; Samuel *et al.* 2015, pp. 11–12). Even at these elevations, however, disease transmission may occur when iiwi move downslope to forage on ephemeral patches of flowering ohia in the nonbreeding season, encountering disease-carrying mosquitoes in the process (Ralph and Fancy 1995, p. 741; Fancy and Ralph 1998, p. 3; Guillaumet *et al.* 2015, p. EV–8; LaPointe *et al.* 2015, p. 1). Iiwi have not demonstrably developed resistance to avian malaria, unlike related honeycreepers including Amakihi (*Hemignathus* spp.) and Apapane. Due to the extreme mortality rate of iiwi when exposed to avian malaria, we consider avian malaria in particular to pose a threat to iiwi. Having already experienced local extinctions and widespread population declines, it is possible that the species may not possess sufficient genetic diversity to adapt to these diseases (Atkinson *et al.* 2009, p. 58).

Climate Change

Based on the assessment of the best scientific data available, we conclude that climate change exacerbates the impacts to iiwi from mosquito-borne disease, and this effect is likely to continue and worsen in the future. Air temperature in Hawaii has increased in the past century and particularly since the 1970s, with the greatest increases at higher elevations, and several conservative climate change models project continued warming in Hawaii into the future. As a result, the temperature barrier to the development and transmission of avian malaria will continue to move up in elevation in response to warmer conditions, leading to the curtailment or loss of disease-free habitats for iiwi. We briefly discuss below three climate studies that conservatively predict the iiwi will lose between 60 and 90 percent of its current (and already limited) disease-free range by the end of this century, with significant effects occurring by mid-century.

Climate Change Effects on Iiwi

Climate change is a stressor that is likely to significantly exacerbate the effects of avian malaria on iiwi both directly through increased prevalence and mortality, and indirectly through the loss of disease-free habitat. Air temperature in Hawaii has increased in the past century and particularly since the 1970s, with greater increases at high elevation (Giambelluca *et al.* 2008, pp. 2–4; Wang *et al.* 2014, pp. 95, 97). Documented impacts of increased temperature include the prevalence of avian malaria in forest birds at increasing elevation, including high-elevation sites where iiwi are already declining, for example, on Kauai (Paxton *et al.* 2013, p. 13; Paxton *et al.* 2016, entire). Several projections for future climate in Hawaii describe a continued warming trend, especially at high elevations. In our species status report, we analyzed in particular three climate studies (summarized below) that address the future of native forest birds, including iiwi, in the face of the interactions between climate change and avian malaria.

Benning *et al.* (2002) concluded that under optimistic assumptions (*i.e.,* 3.6 °F (2 °C) increase in temperature by the year 2100), malaria-susceptible Hawaiian forest birds, including iiwi, will lose most of their disease-free habitat in the three sites they considered

in their projection of climate change impacts. For example, current disease-free habitat at high elevation within the Hakalau Forest National Wildlife Refuge (NWR) on the island of Hawaii (where the environment is still too cold for development of the malarial parasite) would be reduced by 96 percent by the end of the century.

Fortini *et al.* (2015) conducted a vulnerability assessment for 20 species of Hawaiian forest birds based on a projected increase of 6.1 °F (3.4 °C) under the A1B emissions scenario at higher elevations by 2100. Even under this relatively optimistic scenario, in which emissions decline after mid-century (IPCC 2007, p. 44), all species were projected to suffer range loss as the result of increased transmission of avian malaria at higher elevations with increasing temperature. Iiwi was predicted to lose 60 percent of its current range by the year 2100, and climate conditions suitable for the species will shift up in elevation, including into areas that are not currently forested, such as lava flows and high-elevation grasslands. Most of the remaining habitat for iiwi would be restricted to a single island, Hawaii Island.

Liao *et al.* (2015) generated temperature and precipitation projections under three alternative emissions scenarios and projected future malaria risk for Hawaiian forest birds. Irrespective of the scenario modeled, by mid-century (roughly 2040), malaria transmission rates and impacts to bird populations began increasing at high elevations. By 2100, the increased annual malaria transmission rate for iiwi was projected to result in population declines of 70 to 90 percent for the species, depending on the emissions scenario.

All three of these studies consistently predict a significant loss of disease-free habitat for iiwi with consequent severe reductions in population size and distribution by the year 2100, with significant changes likely to be observed as early as 2040. As the iiwi's numbers and distribution continue to decline, the remaining small, isolated populations become increasingly vulnerable to loss of ohia forest habitat from other stressors such as ROD, as well as other environmental catastrophes and demographic stochasticity, particularly should all remaining iiwi become restricted to a single island (Hawaii Island), as some scenarios suggest.

Climate change will likely exacerbate other stressors to iiwi in addition to disease. Projected increases in temperature and humidity are likely to increase the spatial extent of areas on Hawaii Island vulnerable to ROD (Keith 2016, pers. comm). Changes in the amount and distribution of rainfall in Hawaii likely will affect the quality and extent of mesic and wet forests on which iiwi depend. Hawaii has experienced an overall drying trend since the 1920s, with an average annual decline in precipitation of 1.78 percent (Frazier and Giambelluca 2016, p. 4), but some future projections suggest that areas that currently are wet (windward sides of islands) will experience greater rainfall and more extreme rainfall events, while currently dry areas (leeward sides and high elevations) will become drier (Zhang *et al.* 2016, pp. 8,350–8,351). Changes in the trade wind inversion (which strongly influences rainfall) and other aspects of precipitation with climate change are difficult to model with confidence, complicating projections of future precipitation in Hawaii on various spatial scales (Chu and Chen 2005, pp. 4,801–4,802; Cao *et al.* 2007, pp. 1,158–1,159; Timm *et al.* 2015, p. 107; Fortini *et al.* 2015, p. 5; Liao *et al.* 2015, p. 4,345). In addition, potential increases in storm frequency and intensity in Hawaii as a result of climate change may lead to an increase in direct mortality of individual iiwi and a decline in the species' reproductive success. Currently, no well-developed projections exist for these possible cumulative effects.

Climate Change—Summary

The natural susceptibility of native forest birds to introduced diseases, in combination with the observed restriction of Hawaiian honeycreepers to high-elevation forests, led Atkinson *et al.* (1995, p. S68) to predict two decades ago that a shift in the current mosquito distribution to higher elevations could be ''disastrous for those species with already reduced populations.'' Thus, climate change has significant implications for the future of Hawaiian forest birds, as predictions suggest increased temperatures may largely eliminate the high-elevation forest currently inhospitable to the transmission of mosquito-borne diseases (Benning *et al.* 2002, pp. 14,247–14,249; LaPointe *et al.* 2012, p. 219; Fortini *et al.* 2015, p. 9). Samuel *et al.* (2015, p. 15) predict further reductions and extinctions of native Hawaiian birds as a consequence, noting that the iiwi is particularly vulnerable due to its high susceptibility to malaria. Finally, Paxton *et al.* (2016, entire) report a steepening decline in iiwi and other honeycreepers on Kauai since 2000.

Iiwi is projected to be extirpated from Kauai by 2050 as a result of the island having now passed a ''tipping point'' where increasing temperature exposes birds to mosquito-borne disease throughout their remaining range on the island; if the current trends of decline in distribution and abundance continue in a linear fashion in the future, iiwi could be extirpated from Kauai much sooner (Paxton *et al.* 2016, pp. 3, 5). The maximum elevation of forest habitat on Kauai (about 4,900 ft (1,500 m)) is less than that on either Maui or Hawaii Island, where similar trends of increase in temperature and the elevation of disease transmission are well documented, as discussed above. Iiwi, and other disease-susceptible honeycreepers, only persist in abundance on these higher islands in high-elevation, disease-free habitat that is shrinking with increasing temperature. In sum, several independent studies project consistently significant negative impacts to the iiwi as a result of climate change and the increased exposure to avian malaria as disease-free habitats shrink. As iiwi are known to exhibit 95 percent mortality on average as a result of avian malaria, the current numbers of iiwi are of little consequence should all or most of the remaining individuals become exposed to the disease in the future.

Rapid Ohia Death

Rapid ohia death, a new disease that kills ohia trees, is a factor with the potential to exacerbate the threats currently affecting iiwi and reduce the amount of disease-free habitat remaining by destroying high-elevation ohia forest. Unexplained, widespread mortality of ohia trees was first detected in 2012 in lowland forests of the Puna Region of Hawaii Island (Keith *et al.* 2015, entire). Pathogenicity tests conducted by the USDA Agriculture Research Service determined that the vascular wilt disease, now commonly known in Hawaii as rapid ohia death (ROD), is caused by the fungus *Ceratocystis fimbriata* (Keith *et al.* 2015, pp. 1–2). A second, new species of *Ceratocystis* also kills ohia; this new species is being described as of this writing (Hughes 2016, pers. comm.; Keith 2016, pers. comm.).

Ohia stands experience rapid and extensive mortality from ROD. In 2014, approximately 15,000 ac (6,000 ha) of ohia forest from Kalapana to Hilo on Hawaii Island experienced greater than 50 percent mortality, with 100 percent mortality in some stands over a two to three year period (Friday *et al.* 2015, p. 1). Between 2014 and 2015, annual mortality rates measured in monitoring plots averaged from 24 percent (measured as ohia stems) to 28 percent

(measured as ohia basal area) (Mortenson *et al.* 2016, p. 89). When these plots were established in the ROD-infected area in January and February of 2014, all had already experienced an average of approximately 39 percent ohia mortality (Mortenson *et al.* 2016, p. 89).

At present, the disease remains restricted to Hawaii Island, where it is spreading rapidly. In 2016, the amount of forest area affected on Hawaii Island was estimated to be more than 50,000 ac (20,235 ha), and this estimate includes a new outbreak in Laupahoehoe Forest Reserve on the Hamakua Coast (Hughes 2016, pers. comm.). The largest affected area is within the Puna District, where infected trees have been observed within approximately 4,000 discontinuous acres (1,619 ha) (Hughes 2016, pers. comm.). In some areas, dead and dying trees affected by the fungus have been observed within the range of iiwi (Hughes 2016, pers. comm.; Keith 2016, pers. comm.). Affected trees are found at elevations ranging from sea level up to approximately 5,000 ft (1,524 m), including at Wailuku Forest near Hakalau Forest NWR (Hughes 2016, pers. comm.), which contains a stable to increasing iiwi population (Paxton *et al.* 2013, p. 12). Hawaii Island is home to 90 percent of the current iiwi population, and this island will remain particularly important for the species: Iiwi are predicted to be largely if not entirely restricted to that island under some future climate change projections (Fortini *et al.* 2015, p. 9, Supplement 6).

Evaluation of Existing Regulatory Mechanisms and Conservation Measures

Our species status report evaluated several regulatory and other measures in place today that might address or are otherwise intended to ameliorate the stressors to iiwi. Our analysis concluded that forest habitat protection, conservation, and restoration has the potential to benefit iiwi by protecting and enhancing breeding and foraging areas for the species while simultaneously reducing the abundance of mosquito breeding sites, despite the disease vector's (*Culex quinquefasciatus*) 1-mi (1.6-km) dispersal ability (LaPointe *et al.* 2009, pp. 408; 411–412; LaPointe *et al.* 2012, p. 215).

Because of the iiwi's extreme susceptibility to avian malaria, habitat to sustain the species must be disease-free. Efforts to restore and manage large, contiguous tracts of native forests have been shown to benefit iiwi, especially when combined with fencing and ungulate removal (LaPointe *et al.* 2009, p. 412; LaPointe *et al.* 2012, p. 219). While forest restoration and ungulate management at the Hakalau Forest NWR on Hawaii Island are excellent examples of what is needed to increase iiwi abundance, many similar large-scale projects would be necessary rangewide to simply reduce mosquito abundance and protect the species from current habitat threats alone. However, even wide-scale landscape habitat management would be unable to fully address the present scope of the threat of disease, and sufficient high-elevation forest is not available to provide disease-free habitat for iiwi in the face of future climate change. Even if disease-free habitat within managed areas could be restored and protected now, much of this habitat will lose its disease-free status as avian malaria moves upward in elevation in response to warming temperatures, as is occurring already within the Alakai Wilderness on the island of Kauai.

New opportunities are emerging, such as large-scale vector control using new tools that have the potential to assist Hawaiian forest birds (LaPointe *et al.* 2009, pp. 416–417; Reeves *et al.* 2014, p. e97557; Gantz *et al.* 2015, pp. E6736–E6743; Fischer in press, pp. 1–2). The most promising of these new tools forego chemicals as a means of lethal control and directly manipulate the viability (or fitness) of the mosquitoes and can be grouped into two broad categories: the Sterile Insect Technique (SIT) and the Population Replacement Technique (PRT) (Fischer in press, pp. 1–2). These tools have positive attributes that set them apart from traditional mosquito control options. These new approaches have the potential to achieve landscape-scale control, are species specific, and are more effective against dispersed, cryptic, and hard to-reach targets such as the *Culex* mosquitoes that carry avian malaria in Hawaiian forests (Alphey *et al.* 2010, pp. 297–299). Although these new developments are encouraging, these new technologies for achieving large-scale control or eradication of mosquitoes in Hawaii are still in the research and planning stage and have yet to be implemented or proven effective.

We also evaluated several regulations and agreements pertaining to climate change. Although the United States and some other countries have passed some regulations specifically intended to reduce the emission of greenhouse gases that contribute to climate change, the scope and effect of such regulations are limited. Indeed, during the United Nations Framework Convention on Climate Change (UNFCCC) meeting in December 2015, the UNFCCC indicated that, even if all the member countries' intended contributions to greenhouse gas reductions were fully implemented and targets met, the goal of limiting the increase in global average temperature to 2 °C (3.6 °F) by the year 2100 would not be achieved.

Many of the efforts to tackle the primary stressors to iiwi are still in the research and development stage, or are implemented only on a small or limited scale. Because the primary stressor, avian malaria, continues to have negative impacts, and these impacts are exacerbated by climate change, we conclude that the existing regulatory mechanisms do not offset these impacts to the species.

Summary of Biological Status and Threats

We have reviewed the best scientific and commercial data available regarding iiwi populations and the stressors that affect the species. This information includes, notably, a recent comprehensive analysis of iiwi abundance, distribution, and population trends (Paxton *et al.* 2013); numerous studies that provide information on the particularly high mortality of iiwi in response to avian malaria; and recent models examining the current relationship between climate and malaria, as well as the likely future consequences of climate change for iiwi and other Hawaiian forest birds (including Benning *et al.* 2002, Fortini *et al.* 2013, and Liao *et al.* 2015). Our review also reflects the expert opinion of the species' status report team members, and input provided by specialists familiar with avian malaria and iiwi genetics. We direct the reader to the iiwi species status report for our detailed evaluation of the biological status of the iiwi and the influences that may affect its continued existence.

Once one of the most common of the native Hawaiian forest birds, the iiwi has declined across large portions of its range and has been extirpated or nearly so from some islands, and many of the few remaining populations are declining. The iiwi's range is contracting upslope in most areas, and population declines and range contraction are concurrent with increasing prevalence of avian malaria. The iiwi is highly susceptible to avian malaria, and that the prevalence of this disease is moving upslope in Hawaiian forests correlated with temperature increases associated with climate change. This disease and its trend of increasing prevalence at increasing elevation are the chief drivers of observed iiwi population declines and

range contraction. Although habitat management to reduce breeding habitat for mosquitoes may have slowed the decline of iiwi and other forest birds to some degree in a few locations, no landscape-scale plans or strategies exist for eradicating mosquitoes or otherwise reducing the risk posed by avian malaria to iiwi and other susceptible Hawaiian bird species.

The documented trend of temperature increase, which is greatest at high elevation, is projected to continue at least through the 21st century. The transmission of avian malaria is currently limited or absent at higher elevations, where temperatures are too cool for the development of the malaria parasite. However, multiple independent modeling efforts consistently project that the prevalence of avian malaria will continue to increase upslope with increasing temperature, eventually eliminating most or all remaining disease-free habitat in the islands. These models, which incorporate data on the distribution of forest birds and on disease transmission, project moderate to high avian malaria transmission at the highest elevations of the iiwi's current range by the end of this century, with some significant effects predicted within the next few decades. As a consequence, significant declines in iiwi populations are projected, on the order of 70 to 90 percent by 2100, depending on the future climate scenario.

The impacts of other stressors to iiwi, such as loss or degradation of native forest by nonnative species (disturbance or destruction by feral ungulates; invasion by nonnative plants; impacts from nonnative pathogens such as ROD), predation by mongooses and feral cats, and small-population stressors such as demographic stochasticity and loss of genetic diversity, have not been well documented or quantified (predation by rats, notably *Rattus rattus,* is suspected to contribute to decline in iiwi) (VanderWerf 2016, pers. comm.). However, any stressors that result in further degradation or fragmentation of the forests on which the iiwi relies for foraging and nesting, or result in increased mortality or reduced reproductive success, are likely to exacerbate the impacts of disease on the species. The effects of climate change are likely to exacerbate these other stressors to iiwi as well.

As the number and distribution of iiwi continue to decline, the remaining small, isolated populations become increasingly vulnerable to environmental catastrophes and demographic stochasticity; this will particularly be the case should all remaining iiwi become restricted to Hawaii Island, as some modeling scenarios suggest. Ninety percent of the rangewide iiwi population is already restricted to Hawaii Island, where ROD has recently emerged as a fast-moving threat to the already limited ohia forest habitat required by iiwi.

In consideration of all of this information, we conclude that avian malaria and possibly avian pox, as exacerbated by the ongoing effects of climate change, pose a threat to iiwi, and the action of these stressors places the species as a whole at an elevated risk of extinction. Because the vast majority of the remaining iiwi population is restricted to the island of Hawaii, we consider ROD to pose a threat to the future viability of iiwi as well, as it may result in major loss of forest within the iiwi's remaining range on that island.

Determination

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations in title 50 of the Code of Federal Regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the iiwi. As described in the species status report, in considering the five listing factors, we evaluated many potential stressors to iiwi, including but not limited to: Stressors that may affect the extent or quality of the bird's ohia forest habitat (ROD and ohia rust (both nonnative pathogens), ohia dieback (a natural phenomenon), drought, fires, volcanic eruptions, nonnative plants, and feral ungulates), introduced diseases, predation by introduced mammals, competition with nonnative birds, ectoparasites, climate change, and the effects of small population size. Based on our assessment, disease—particularly avian malaria—is the primary driver in the ongoing declines in abundance and range of iiwi, and climate change substantially exacerbates the impact of disease on the species and will continue to do so into the future.

The greatest current threat to iiwi comes from exposure to introduced diseases carried by nonnative mosquitoes (Factor C). Avian malaria in particular has been clearly demonstrated to result in extremely high mortality of iiwi; avian pox may have significant effects on iiwi as well, although the evidence is not as clear or measurable. These diseases have resulted in significant losses of the once ubiquitous iiwi, which remains highly susceptible and, as of present, shows no clear indication of having developed substantial resistance or tolerance. Exposure to these diseases is ongoing, and is expected to increase as a consequence of the effects of climate change (Factor E).

Several climate model projections predict that continued increases in temperature due to climate change will greatly exacerbate the impacts of avian diseases upon iiwi due to loss of disease-free habitat. Several iiwi populations, including those on Molokai, Kauai, West Maui, and possibly Oahu—all lower in elevation than East Maui and Hawaii Island—are already extremely small in size or are represented by only a few occasional individuals, probably owing to the loss of disease-free habitat. Iiwi may face extirpation in these places due to the inability to overcome the effects of malaria. The species is expected to first become restricted to Hawaii Island, perhaps by the year 2040. By the end of the century, the existence of iiwi is uncertain due to the ongoing loss of disease-free habitat; the potential impacts to ohia forests from ROD and other stressors could increase the risk to iiwi as well. These threats to iiwi are ongoing, most are rangewide, are expected to increase in the future, and are significant because they will likely result in increased mortality of iiwi and loss of remaining populations, as well as further decreases in the availability and amount of disease-free habitat at high elevation. As discussed above, the existing regulatory mechanisms are not sufficient to address these threats (Factor D).

Some of the other stressors contributed to past declines in iiwi, or negatively affect the species or its habitat today; however, of the additional stressors considered, we found no information to suggest that any is currently a key factor in the ongoing declines in abundance and range of iiwi, although they may be contributing or exacerbating factors. Habitat loss and alteration (Factor A) caused by

nonnative plants and ungulates is occurring rangewide, has resulted in degraded ohia forest habitat, and is not likely to be reduced in the future. While ohia forests still comprise the majority of native forest cover on most of the main Hawaiian Islands, climate change and its likely effects, such as increased drought frequency, are expected to further affect ohia forest habitat and compound other impacts, including the spread of invasive plants and perhaps the severity and frequency of ohia diseases. In particular, ROD, the rapidly spreading and highly lethal tree disease, poses an increasing risk to the native forest habitat of iiwi on Hawaii Island, where 90 percent of remaining iiwi occur. This emerging factor has the potential to exacerbate avian disease and other stressors in the future by accelerating the loss and degradation of iiwi's habitat. If this disease becomes widespread, it could further increase the vulnerability of the iiwi by eliminating the native forest it requires for foraging and nesting.

We do not have any information that overutilization for commercial, recreational, scientific, or educational purposes (Factor B) poses a threat to iiwi.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' We considered whether the iiwi meets either of these definitions, and find that the iiwi meets the definition of a threatened species for the reasons described below.

We considered whether the iiwi is currently in danger of extinction and determined that endangered status is not appropriate. Although the species has experienced significant reductions in both abundance and range, at the present time the species is still found on multiple islands, and the species as a whole still occurs in relatively high numbers. Additionally, disease-free habitat currently remains available for iiwi in high-elevation ohia forests with temperatures sufficiently cool to prevent the development of the malarial parasite. For these reasons, we do not consider the iiwi to be in imminent danger of extinction, although this formerly common species has experienced threats of such severity and magnitude that it has now become highly vulnerable to continued decline and local extirpation, such that the species is likely to become endangered within the foreseeable future, as explained below.

Based on our review of the best scientific and commercial data available, we expect that additional iiwi population declines will be observed range-wide within the next few decades, and indications are that declines are already taking place on Kauai and in some Maui and Hawaii Island populations as a result of increasing temperatures and consequent exposure to avian malaria at some elevations where the disease is uncommon or absent today. Iiwi has a very high observed mortality rate when exposed to avian malaria, and the warming effects of climate change will result in increased exposure of the remaining iiwi populations to this disease, especially at high elevation. Peer-reviewed results of modeling experiments project that malaria transmission rates and effects on iiwi populations will begin increasing at high elevations by mid-century, and result in population declines of 70 to 90 percent by the year 2100. We thus conclude that the iiwi is likely to become in danger of extinction throughout all of its range within the foreseeable future. Because the iiwi is not in imminent danger of extinction, but is likely to become in danger of extinction within the foreseeable future, it meets the definition of a threatened species. Therefore, on the basis of the best available scientific and commercial information, we are listing the iiwi as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the iiwi is threatened throughout all of its range, under the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species and ''Threatened Species'' (79 FR 37577 (July 1, 2014)) (SPR Policy), if a species warrants listing throughout all of its range, no portion of the species' range can be a ''significant'' portion of its range. While it is the Service's position under the SPR Policy that undertaking no further analysis of ''significant portion of its range'' in this circumstance is consistent with the language of the Act, we recognize that the Policy is currently under judicial review, so we also took the additional step of considering whether there could be any significant portions of the species' range where the species is in danger of extinction. We evaluated whether there is substantial information indicating that there are any portions of the species' range: (1) That may be ''significant,'' and (2) where the species may be in danger of extinction. In practice, a key part of identifying portions appropriate for further analysis is whether the threats are geographically concentrated. For the iiwi, the primary driver of its status is avian malaria. The prevalence of this disease is moving upslope in Hawaiian forests correlated with temperature increases associated with climate change. These threats are affecting the species throughout its entire range; therefore, there is not a meaningful geographical concentration of threats. As a result, even if we were to undertake a detailed SPR analysis, there would not be any portions of the species' range where the threats are harming the species to a greater degree such that it is in danger of extinction in that portion.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition from listing will result in public awareness and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent

recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for downlisting or delisting, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and other qualified persons) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan for iiwi will be available on our Web site (*http://www.fws.gov/endangered*), or from our Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). The public will have an opportunity to comment on the draft recovery plan, and the Service will consider all information presented during the public comment period prior to approval of the plan.

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands. If this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Hawaii would be eligible for Federal funds to implement management actions that promote the protection or recovery of the iiwi. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the iiwi's habitat that may require a conference or consultation or both as described in the preceding paragraph, include but are not limited to, management and any other landscape-altering activities on Federal lands administered by the U.S. Fish and Wildlife Service, U.S. Forest Service, and National Park Service; actions within the jurisdiction of the Natural Resources Conservation Service, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and branches of the Department of Defense (DOD); and activities funded or authorized under the Federal Highway Administration, Partners for Fish and Wildlife Program, and DOD construction activities related to training or other military missions.

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened species. We are not proposing to issue a special rule pursuant to section 4(d) for this species. Therefore, the provisions of 50 CFR 17.31(a) and (b) would apply. These regulatory provisions apply the prohibitions of section 9(a)(1) of the Act to threatened wildlife and make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import, export, deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, or for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. Based on the best available information, actions that may result in a violation of section 9 include but are not limited to:

(1) Development of land or the conversion of native ohia forest, including the construction of any infrastructure (*e.g.,* roads, bridges, railroads, pipelines, utilities) in occupied iiwi habitat;

(2) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of the species, including import or export across State lines and international boundaries, except for properly documented antique specimens of this species at least 100 years old, as defined by section 10(h)(1) of the Act;

(3) Introduction of nonnative species that compete with or prey upon the iiwi, such as the new introduction of nonnative predators or competing birds to the State of Hawaii; and

(4) Certain research activities: Collection and handling of iiwi for research that may result in displacement or death of individuals.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Pacific Islands Fish and Wildlife Office, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* at Docket No. FWS–R1–ES–2016–0057 and upon request from the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Pacific Islands Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. In § 17.11(h), add an entry for ''Iiwi (honeycreeper)'' to the List of Endangered and Threatened Wildlife in alphabetical order under BIRDS to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
BIRDS				
*	*	*	*	*
Iiwi (honeycreeper)	*Drepanis coccinea*	Wherever found	T	82 FR [Insert **Federal Register** page where the document begins], 9/20/2017.
*	*	*	*	*

Dated: August 23, 2017.

James W. Kurth

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–20074 Filed 9–19–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2016–0037; 4500030113]

RIN 1018–BB55

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Pearl Darter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for the pearl darter (*Percina aurora*), a fish whose historical range includes Mississippi and Louisiana. The effect of this regulation will be to add this species to the List of Endangered and Threatened Wildlife.

DATES: This rule becomes effective October 20, 2017.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* in Docket No. FWS–R4–ES–2016–0037 and on the Mississippi Field Office Web site at *https://www.fws.gov/mississippiES/*. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov* and by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Mississippi Ecological Services Field Office, 6578 Dogwood View Parkway, Jackson, Mississippi 39213, by telephone 601–321–1122 or by facsimile 601–965– 4340.

FOR FURTHER INFORMATION CONTACT: Stephen Ricks, Field Supervisor, U.S. Fish and Wildlife Service, Mississippi Ecological Services Field Office, 601–321–1122. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act of 1973, as amended (Act, 16 U.S.C. 1531 *et seq.*), if we determine that a species is an endangered or threatened species throughout all or a significant portion of its range, we are required to promptly publish a proposal in the **Federal Register** and make a determination on our proposal within 1 year. Listing a species as an endangered or threatened species can only be completed by issuing a rule. We published a proposed rule to add the pearl darter (*Percina aurora*) to the List of Endangered and Threatened Wildlife in title 50 of the Code of Federal Regulations (50 CFR 17.11(h)) as threatened on September 21, 2016 (81 FR 64857).

What this document does. This rule will finalize the listing of the pearl darter as a threatened species.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of

existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that water quality decline from point and nonpoint source pollution continues to impact portions of this species' habitat. In addition, geomorphology changes attributed to historical sand and gravel mining operations within the drainage are considered an ongoing threat. This species has been extirpated from the Pearl River watershed and is confined today to the Pascagoula River basin where the species' small population size, scattered locations, and low genetic (allelic) diversity increase its vulnerability to extirpation from catastrophic events.

Peer review and public comment. We sought comments from independent specialists to ensure that our determination was based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all comments and information received from the public during the comment period.

Previous Federal Action

Please refer to the September 21, 2016, proposed listing rule (81 FR 64857) for a detailed description of previous Federal actions concerning this species.

Background

For a more detailed discussion of the taxonomy, biology, status, and threats affecting the species, please refer to the proposed listing rule. In the proposed rule, we evaluated the biological status of the species and factors affecting its continued existence. Our assessment was based upon the best available scientific and commercial data on the status of the species, including past, present, and future threats.

Summary of Comments and Recommendations

In the proposed rule, we requested that all interested parties submit written comments on the proposal by November 21, 2016. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Hattiesburg American, Mississippi Press, and Clarion-Ledger on October 2, 2016. We did not receive any requests for a public hearing. All substantive information provided during the comment period has either been incorporated directly into this final determination or is addressed in the more specific response to comments below.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from three individuals with scientific expertise that included familiarity with pearl darter and its habitat, biological needs, and threats. We received responses from all three of the peer reviewers.

We reviewed all comments received from the peer reviewers for new substantive information regarding the listing of the pearl darter. The peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final rule. Where appropriate, we incorporated new information into the final rule as a result of the peer reviewer comments, including new survey information. Other substantive peer reviewer comments are below.

(1) *Comment:* One peer reviewer suggested our statement that the species was extirpated from the Pearl River drainage was premature, since surveys in that system were ongoing, and cautioned that a final listing decision should be withheld until surveys were completed.

Our Response: While upper Pearl River basin surveys for the pearl darter were completed in 2011 (Schaefer and Mickle 2011), surveys for the darter in the lower Pearl River drainage were only completed by the Mississippi Department of Wildlife, Fisheries, and Parks in May of 2017 (Wagner *et al.* 2017, entire). Those surveys, which included both traditional surveys and eDNA analysis (Wagner *et al.* 2017, p. 5), were utilized over the last 2 years in an attempt to locate evidence of this species persisting in the Pearl River system. Our determination that the pearl darter has not been collected from the Pearl River drainage in over 40 years, and is considered extirpated from this system, is validated by these recent survey results.

(2) *Comment:* One peer reviewer stated that pulp mills should be considered a threat to water quality degradation. The reviewer also expressed a suspicion that pulp mill effluent may have had some influence on extirpation of pearl darters in the Pearl River.

Our Response: We agree and have made changes to this final rule to reflect the peer reviewer's input in the Summary of Factors Affecting the Species section, below.

(3) *Comment:* One peer reviewer stated that increased demand for water withdrawal by industry and municipalities should be considered an additional threat to the species in the Pascagoula drainage. The reviewer stated that this activity will be a continuing threat for all aquatic resources as coastal populations grow and industrial needs expand. The commenter cited the 2006 proposed Richton Salt Dome as an example of water withdrawal posing a threat to the pearl darter.

Our Response: We agree that water withdrawal from the Pascagoula drainages could have an impact on the ecological health of the system and potentially impact the pearl darter. However, at this time, we have no information to indicate that increased demand for water withdrawal by industry and municipalities currently poses a threat to the pearl darter, and we note that the peer reviewer did not identify any specific active projects. The Richton Salt Dome project cited by the peer reviewer, which at one time was a concern, was terminated and removed from the Department of Energy's budget in 2011.

(4) *Comment:* One peer reviewer stated that there was no information to indicate there has been a decline in pearl darter abundance in the Bouie River and Black Creek and, particularly, no information attributing any declines to sedimentation and unstable banks. These areas have historically had few specimens of darter and have not been thoroughly surveyed.

Our Response: We agree that there are inadequate data and a lack of thorough surveying of the Bouie River and Black Creek to definitively note a decline of the species in those systems, and we have clarified the rule accordingly. Until recently, there had been no collection efforts in the Bouie River and Black Creek since 2000. However, in 2016–2017, survey efforts in these systems found pearl darters to be sparsely present in a few sites (Schaefer *in litt.* 2017). Evidence of substantial sedimentation and unstable banks in the Bouie River and Black Creek has been documented in the past (Mossa and Coley 2004, p. 7; Mississippi Department of Environmental Quality 2005c, p. 16) and observed currently (Schaefer *in litt.* 2017). The negative impact of excessive sedimentation on darter distribution is well known and addressed under Factor A in the Summary of Factors Affecting the Species section of the preamble to this rule. Furthermore, there are also likely other factors contributing to water quality degradation in these systems,

such as point and nonpoint source pollution related to stormwater runoff and effluent discharge from industry, agriculture, and urbanization; therefore, we have revised our statement regarding sedimentation.

(5) *Comment:* One peer reviewer commented that our statement in the proposed rule on low genetic diversity and restricted gene flow as reported by Kreiser *et al.* (2012) ran counter to the hypothesized long-distance spawning migrations noted elsewhere in the rule. The commenter stated that the genetic data support a series of potentially disjunct populations rather than one contiguous population.

Our Response: We appreciate the comment and have clarified in this final listing rule the statement that pearl darters may have long-distance spawning migrations (Bart *et al.* 2001, p. 14). Kreiser's (*et al.* 2012, pp. 14–17) recent genetic studies, indicating a series of potentially disjunct populations, are likely a more accurate representation of the population structure of the pearl darter (see Summary of Factors Affecting the Species, Factor E).

Comments From States

The proposed rule was reviewed by the Mississippi Department of Wildlife, Fisheries and Parks; the Mississippi Forestry Commission; and the Louisiana Department of Wildlife and Fisheries. The individual associated with the Mississippi Department of Wildlife, Fisheries and Parks also served as a peer reviewer, and his comment is addressed in Comment 1 above. The State agencies generally concurred with our methods and commented that the literature and data were thorough and properly documented. They stated that we should withhold our final listing decision until their surveys in the Pearl River drainage had been completed. Mississippi Department of Wildlife, Fisheries and Parks recently provided additional information from their recent site surveys. The Louisiana Department of Wildlife and Fisheries agreed that there were no recent records from the Pearl River system despite recent sampling efforts. An issue raised by the Mississippi Forestry Commission is addressed below.

(6) *Comment:* The Mississippi Forestry Commission and two commenters from the timber industry stated that we mischaracterized the use of best management practices (BMPs) in Mississippi by stating that: (1) Their use was confined to lands managed by The Nature Conservancy and the State of Mississippi, and (2) the lack of a mandatory requirement makes forestry BMPs less effective. The commenters pointed out that the forest industry has a number of forest certification programs, such as the Sustainable Forestry Initiative, which require participating landowners to meet or exceed State forestry BMPs. The commenters also stated that silviculture practices implemented with BMPs have minimal impacts on aquatic species, and that a recent statewide monitoring survey by Mississippi Forestry Commission indicated that BMPs are being implemented across all silviculture landscapes in Mississippi regardless of ownership.

Our Response: We appreciate the additional information provided by the commenters and commend the timber industry and landowners on their implementation of BMPs in their timber operations and also the success of forestry certification programs, such as Sustainable Forestry Initiative. We have updated information in this rule to acknowledge the contribution of these forest landowners implementing BMPs in the Summary of Factors Affecting the Species section, below.

Public Comments

We received five comments from the public, two of which are addressed in Comment 6, above; the three other commenters simply expressed their support for the proposed listing.

Summary of Changes From the Proposed Rule

This final rule incorporates minor changes to our proposed rule based on the comments we received, as discussed above in Summary of Comments and Recommendations, and newly available survey information. The survey data allowed us to refine distribution information; thus, the final total current range of the species is different from that in the proposed rule. Many small, nonsubstantive changes and corrections were made throughout the document in response to comments (*e.g.,* updating the Background section, threats, minor clarifications). However, the information we received in response to the proposed rule did not change our determination that the pearl darter is a threatened species, nor was it significant enough to warrant reopening the public comment period. Below is a summary of substantive changes made to the final rule.

- We now estimate the total current range of the pearl darter in the Pascagoula watershed to be 668 kilometers (km) (415 miles (mi)) based on a reanalysis of collection records and recent survey results. Detailed information about the species' range within each of the seven river/creek systems is presented in the preamble of this rule, under *Current Distribution.*
- Additional information on habitat and population structure from peer reviewers and recent studies (Wagner *et al.* 2017) has been added to the preamble.
- Additional information and suggestions from peer reviewers was added to clarify and improve the accuracy of the information in the Distribution, Habitat, Biology, and Threats sections of the preamble to the proposed rule.
- Additional information on the species' abundance and probable cause of decline in the Pearl River, as related to the potential threat to existing populations in the Pascagoula system, from two peer reviewers was added into the Summary of Factors Affecting the Species section of this rule, below.
- Additional narrative on historical threats within the Pearl River basin, as well as additional historical and current threats affecting water quality within the Pascagoula River basin, including increased brine concentration from oil and gas production and pulp mill effluent related to pulp, paper, and lumber mills, was added to the preamble.

Summary of Biological Status

Below we present a summary of the biological and distributional information discussed in the proposed listing rule (81 FR 64857; September 21, 2016). We also present new information published or obtained since the proposed rule was published (see Summary of Changes from the Proposed Rule, above).

Taxonomy and Species Description

The pearl darter (*Percina aurora*) is a small fish and is one of three members of the subgenus *Cottogaster* (Ross 2001, p. 500). The species is allied to the channel darter (*P. copelandi*) (Ross *et al.* 1989, p. 25) but is distinguished from it by its larger size, lack of tubercules (small, raised, skin structures), heavy pigmentation, number of marginal spines on belly scales of breeding males, and fully scaled cheeks (Suttkus *et al.* 1994, pp. 13–14). Generally, pearl darters range in size from 22 to 59 millimeters (mm) (0.87 to 2.3 inches (in)) in length with the majority of adults being from 30 to 41 mm (1.2 to 1.6 in) long (Clark and Schaefer 2015, p. 10).

Historical Distribution

The pearl darter is historically known from localized sites within the Pearl and Pascagoula River drainages in

Mississippi and Louisiana, based on collection records from 16 counties and parishes of Mississippi and Louisiana. Examination of site records of museum fish collections from the Pearl River drainage (compiled from Suttkus *et al.* 1994, pp. 15–18) suggests that the pearl darter once inhabited the large tributaries and main channel habitats within these drainages from St. Tammany Parish, Louisiana, to Simpson County, Mississippi. This area totaled approximately 708 km (440 mi) within the Pearl River basin and included the lower Pearl River, the Strong River, and the Bogue Chitto River (compiled from MMNS 2016, unpublished data; Slack *et al.* 2005, pp. 5–10; Ross 2001, p. 499; Ross *et al.* 2000, pp. 2–5; Bart and Piller 1997, pp. 3–10; Bart and Suttkus 1996, pp. 3–4; Suttkus *et al.* 1994, pp. 15–18). However, there have been no records of this species from the Pearl River drainage in over 40 years, despite repeated collecting efforts through the years (Wagner *et al.* 2017, pp. 3–10, 12; Geheber and Piller 2012, pp. 633–636; Schaefer and Mickel 2011, p. 10; Slack *et al.* 2005, pp. 5–10; Tipton *et al.* 2004, pp. 56–57; Ross 2001, p. 499; Bart and Piller 1997, p. 1; Bart and Suttkus 1996, pp. 3–4; Bart and Suttkus 1995, pp. 13–14; Suttkus *et al.* 1994, pp. 15–18). Survey efforts over the last few years at all historical sites, including north of and just below the Ross Barnett Reservoir (Schaefer and Mickle 2011, pp. 8–10), have confirmed its absence from the Pearl River system (Wagner *et al.* 2017, pp. 3–4; Roberts *in litt.* 2015; Geheber and Piller 2012, p. 633), including the recent analysis of water samples for eDNA from the Pearl River proper, Strong River, and Bogue Chitto River (Piller *in litt.* 2017). Thus, the pearl darter is considered extirpated from the Pearl River system today.

Current Distribution

Today, the pearl darter occurs in scattered sites within an approximately 668-km (415-mi) area of the Pascagoula drainage, including the Pascagoula (101 km, 63 mi), Chickasawhay (257 km, 160 mi), Leaf (186 km, 115 mi), Chunky (31 km, 19 mi), and Bouie (24 km, 15 mi) Rivers and Okatoma (37 km, 23 mi) and Black Creeks (32 km, 20 mi) (Wagner *et al.* 2017, pp. 3–10, 12; Wagner *in litt.* 2017; Clark and Schaefer 2015, pp. 10, 19, 23; Schaefer and Mickle 2011, pp. 1–3; Slack *et al.* 2002, p. 9).

The average catch at known occupied sites, using standard sampling (30 minutes with heavy leaded seine) is 2.1 individuals (Wagner *et al.* 2017. pp. 3–4; Clark and Schaefer 2015, pp. 9–14, 18–22), indicating a species that is rare. Surveys by Kreiser *et al.* (2012, pp. 29–32) found sporadic occurrences of the species within the Pascagoula River from its headwaters at the confluence of the Leaf and Chickasawhay Rivers downstream to where the river bifurcates (splits). Recent survey efforts indicate reproducing populations in the Chickasawhay and Leaf Rivers, based on the presence of different size classes (Clark *in litt.* 2017; Wagner *in litt.* 2017; Wagner *et al.* 2017, p. 3; Schaefer *in litt.* 2017; Clark and Schaefer 2015, pp. 9–14, 18–22). Though there is a clear pattern of higher abundance and greater rate of occurrence at sites in the Chickasawhay River (5.03 ± 0.62 pearl darters per hour) compared to the Leaf River (2.18 ± 0.56 pearl darters per hour); a pattern that has remained constant over time (Clark and Schaefer 2015, pp. 9–14). Surveys in 2016 of historical locations (Clark *in litt.* 2017; Schaefer *in litt.* 2017) in the Bouie River, Okatoma Creek, and Black Creek yielded seven fish in the Okatoma Creek and one specimen each in the Bouie River and Black Creek. In 2017, one pearl darter was collected in the Chunky River, confirming its presence in that system for the first time since its last collection there over 15 years ago.

Habitat and Biology

The pearl darter occurs in low-gradient, coastal plain rivers and creeks (Suttkus *et al.* 1994, p. 13), predominately classified as 4th to 2nd order streams (Strahler stream order hierarchy). There have been no comprehensive microhabitat studies on the pearl darter; however, based on observations of occupancy in the field, microhabitat features consist of a bottom substrate mixture of sand, silt, loose clay, gravel, organic material, and snags (Slack *et al.* 2005, pp. 9–11). The species has been collected at the steep ends of sandbars, and inside river bends where material is deposited. The water where the species is typically captured has a slow to medium current velocity (0.003 to 0.635 centimeters/second (cm/s) (0.53 to 0.25 in/s) (tabulated from Clark *in litt.* 2017, Slack *in litt.* 2017, Schaefer *in litt.* 2017, unpublished data; Slack *et al.* 2005, p. 10). In fact, based on cluster analysis and ordination of habitat data of the Leaf and Chickasawhay Rivers, higher densities of pearl darters were found in slower moving, deeper waters with finer substrate (Clark and Schaefer 2015, p. 11). There is very little aquatic vegetation in these drainages (Slack *et al.* 2005, p. 9), and vegetation that may be present is usually river weed (*Podostemum ceratophyllum*) attached to rocks (Drennen and Wagner 2017, pers. observ.). Banksides where the pearl darter was collected are vegetative and not vertical or severely eroded (Schaefer *in litt.* 2017, unpublished data).

There is no specific information available on the diet of the pearl darter. However, the channel darter (*P. copelendi*), a closely allied species in similar habitat, has been reported to feed on chironomid flies, small crustaceans, mayflies, and caddisflies (Kuehne and Barbour 1983, p. 49).

Summary of Factors Affecting the Species

Below we present a summary of the threats information from the proposed listing rule. We also present new information published or obtained since the proposed rule was published, including information received during the public comment period.

Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Members of the *Cottogaster* subgenus have undergone range contractions that are of potential conservation concern throughout their respective distributions (Dugo *et al.* 2008, p. 3; Warren *et al.* 2000, pp. 7–8; Goodchild 1994, pp. 433–435). The pearl darter was extirpated from the Pearl River drainage, perhaps as early as the 1970s, and many of the stressors thought to have played a role in its loss in that system are present in the Pascagoula River drainages where the species occurs today, including impoundments (sills and dams); instability in the channel; increased sedimentation from the removal of riparian vegetation and poor agriculture and silviculture practices; and general chronic water degradation from point and non-point source pollution (Piller *et al.* 2004, pp. 1004–1011; TNC 2004, p. 5; Ross 2001, pp. 499–500).

Water Quality Degradation

Water quality degradation, particularly non-point source pollution from incompatible commercial and industrial development and land use practices, has been a major concern within the Pearl River basin (TNC 2004, p. 18). Similarly, the Pascagoula River system suffers from acute and localized water quality degradation by nonpoint source pollution in association with surface, stormwater, and effluent runoffs from urbanization and municipal areas (MDEQ 2005c, p. 23; 2005d, p. 16). ''Total Maximum Daily Loads'' (TMDLs), a term in the U.S. Clean Water Act describing a benchmark set for a certain pollutant to bring water quality up to the applicable standard, have been established for 89 segments of the Pascagoula River basin, many of which

include portions of the pearl darter's range (MDEQ 2014a, pp. 18–21). For sediment, one of the most pervasive pollutants, the State of Mississippi has TMDLs for various tributaries and main stems of the Leaf and Chickasawhay Rivers. To date, efforts by the State of Mississippi to improve water quality in the Pascagoula River basin to meet these TMDL benchmarks have been inadequate (MDEQ 2014a, pp. 18–21). Thirty-nine percent of the Pascagoula River basin tributaries are rated fair or poor due to pollution impacts (MDEQ 2014a, pp. 18–21; MDEQ 2008, p. 17).

Most water quality threats are due to increased sediment loads and variations in pH (MDEQ 2014a, pp. 1–51; 2008a, pp. 13–15). Sediment in stormwater runoff increases water turbidity and temperature and originates locally from poorly maintained construction sites, timber harvest tracts, agricultural fields, clearing of riparian vegetation, and gravel extraction in the river floodplain. Suttkus *et al.* (1994, p. 19) attributed the loss of the pearl darter in the Pearl River to increasing sedimentation from habitat modification caused by the removal of riparian vegetation and extensive cultivation near the river's edge. Excessive sediments disrupt feeding and spawning of fish and aquatic insects, abrade and suffocate periphyton (mixture of algae, bacteria, microbes, and detritus that is attached to submerged surfaces), and impact fish growth, survival, and reproduction (Waters 1995, pp. 55–62). A localized portion of the Chickasawhay River is on the State Section 303(d) List of Water Bodies as impaired due to sediment (MDEQ 2005b, p. 17).

Nonpoint source pollution is a localized threat to the pearl darter within the drainage, and is more prevalent in areas where certified best management practices (BMPs) are not utilized. The use of certified BMPs during land-altering activities can greatly reduce impacts to water quality. Certified BMPs, currently implemented by the forestry industry (*e.g.,* Sustainable Forestry Initiative, Forest Stewardship Council, and American Tree Farm System), are helping to minimize or eliminate non-point source pollution during the course of forestry activities. The Mississippi Forestry Commission (2016, entire) reports certified BMP implementation rates to be high in Mississippi for forestry activities, primarily due to the efforts of State forestry agencies and forest certification programs (Schilling and Wigley 2015, pp. 3–7).

Historically, timber harvesting and processing was extensive in the Pearl River basin, and at one time, the basin was home to one of the most important lumber centers in the United States (Thigpen 1965, pp. 66–69). Pulp and paper manufacturing began in the Pascagoula watershed in Mississippi with three major mills (Monthly Review 1958, p. 83). Today, there are six major pulp mills in the Pascagoula River basin whose effluent may be a threat to the pearl darter. Paper mill effluent is a contributor to water quality degradation and is suspected to have had some influence on the extirpation of the pearl darter in the Pearl River system (Slack *in litt.* 2016). Fish and mussel kills were reportedly not uncommon within reaches downstream from pulp mills in Lawrence County near historical locations for the pearl darter (Slack *in litt.* 2016). As recently as 2011, a ''black liquor'' (wastewater) spill from a paper manufacturing process resulted in a massive fish kill in the Pearl River (Kizha *et al.* 2016, pp. 926–929; Piller and Geheber 2015, pp. 2433–2434).

Numerous studies have documented the effects of pulp and paper mill effluents on fish populations (Beyer *et al.* 1996, pp. 212–224). Depending on the bleaching process, pulp- and paper mill effluents may contain various kinds and concentrations of chlorinated organic compounds such as polychlorinated dibenzodioxins (dioxins) and polychlorinated dibenzofurans (furans), which elicit several lethal and sublethal effects in fish, such as alterations in steroid biosynthesis (manufacturing of hormones and other organic compounds), gonadal (sex gland) development, sexual maturation, and expression of secondary sex characteristics (features that appear at maturity such as coloration). These types of compounds are known to bioaccumulate and have reproductive and antiestrogen (opposite effects of hormones) impacts on fish (Hoffman *et al.* 2003, pp. 1063–1065).

Additionally, some contaminants may bind with one another (*i.e.,* heavy metals bind with sediments or other contaminants in the water column) within the Pascagoula River drainage. These bound chemical contaminants have not been addressed in TMDLs. Only seven TMDLs for metals have been completed (MDEQ 2008, pp. 1–55). The Davis Dead River, a tributary at the most downstream site of the pearl darter's range, is considered critically impaired by mercury (MDEQ 2011, pp. 1–29), and fish consumption advisories continue for mercury in certain gamefish species in the Pascagoula River main stem (MDEQ 2008, p. 43).

There are 15 permitted point source discharge sites within the Bouie River system (MDEQ 2005a, p. 6) and an unknown amount of nonpoint runoff sites. Municipal and industrial discharges during periods of low flow (*i.e.,* no or few rain events) intensify water quality degradation by increasing water temperatures, lowering dissolved oxygen, and changing pH. Within the Pascagoula River basin, pollutants causing specific channel or river reach impairment (*i.e.,* those pollutants preventing the water body from reaching its applicable water quality standard (Environmental Protection Agency 2012, pp. 1–9)), include sedimentation; chemicals and nutrients in the water column; and various toxins, such as heavy metals like lead or cadmium for a total of 304 km (189 mi) impaired riverine segments. TMDLs were completed for pesticides such as dichlorodiphenyltrichloroethane (DDT), toxaphene, dioxin, and pentachlorophenol, although much of the data and results are not finalized and remain unavailable for the designated reaches (Environmental Protection Agency 2012, pp. 1–7; MDEQ 2003, pp. 5–10; Justus *et al.* 1999, p. 1).

Localized wastewater effluent into the Leaf River from the City of Hattiesburg is negatively impacting water quality (Hattiesburg American 2015, pp. 1–2; Mississippi River Collaboration 2014, p. 1). Existing housing, recreational cabins, and trailers along the banks of the Leaf River between I–59 and the town of Estabutchie cause nutrient loading through treated sewage and septic water effluent (Mississippi River Collaboration 2014, p. 1). In 1997, Bart and Piller (p. 12) noted extensive algal growth during warmer months in the Leaf and Bouie Rivers, indicating nutrient and organic enrichment and decreases in dissolved oxygen and pH changes. Today, at specific locations, the water quality of the Bouie and Leaf Rivers and their tributaries continues to be negatively impacted by sediment, organic enrichment, low dissolved oxygen, fecal coliform, and elevated nutrients (MDEQ 2016, p. 86, 91; 2014a, p. 18, 21, 32; 2005a, pp. 1–26; 2004, pp. 1–29).

Oil and Gas Development

Nonpoint and point source pollution from oil and gas exploration, including drill field construction, active drilling, and pipeline easements, may add localized pollutants into the Pascagoula River basin during stormwater runoff events if BMPs are not used. There is one major oil refinery within the basin along with 6 oil pumping stations, 10 major crude pipelines, 4 major product oil pipelines, and 5 major gas and more than 25 lesser gas lines stretching hundreds of miles and crisscrossing the

main stem Pascagoula, Bouie, Leaf, Chickasawhay, and Chunky Rivers and their tributaries; in addition, there are more than 100 active oil producing wells within the pearl darters' watersheds (compiled from Oil and Gas Map of Mississippi in Phillips 2013, pp. 10, 23). All have the potential to rupture or leak and cause environmental and organismal damage as evidenced by the Genesis Oil Company and Leaf River oil spill of 2000 (Environmental Science Services, Inc. 2000, pp. 1–50; Kemp Associates, PA, 2000, pp. 4–5; The Clarion-Ledger, December 23, 1999, p. 1B) and Genesis Oil Company spill in Okatoma Creek in February 2016 (Drennen 2016, pers. observ.). In addition to gas pipelines, there are numerous railways that cross pearl darter habitat that are subject to accidental and catastrophic spilling of toxins such as fuel oil, methanol, resin, and fertilizer (MDEQ 2014b, pp. 1–23).

Alternative oil and gas collection methods (*i.e.,* hydraulic fracturing (''fracking'') and horizontal drilling and injection) have allowed the expansion of oil and gas drilling into deposits that were previously inaccessible (Phillips 2013, p. 21), which has led to increased activity within southern Mississippi, including portions of the Pascagoula River basin. There are more than 100 water injection disposal wells and enhanced oil recovery wells within the basin (compiled from Active Injection Well Map of Mississippi in Phillips 2013, p. 49). A variety of chemicals (*e.g.,* 15% diluted hydrochloric acid, surfactants, potassium chloride) are used during the drilling and fracking process (Colborn *et al.* 2011, pp. 1040–1042), and their wastes are stored in open pits (retention basins) or storage facilities. Spills during transport or releases due to retention basin failure or overflow pose a risk for surface and groundwater contamination, which can cause significant adverse effects to water quality and aquatic organisms that inhabit these watersheds (Osborn *et al.* 2011, pp. 8172–8176; Kargbo *et al.* 2010, pp. 5680–5681; Wiseman 2009, pp. 127–142). In addition, contamination of streams with brine (chloride), a byproduct of oil and gas development, poses a significant risk to aquatic habitats and species. High chloride concentrations interfere with osmoregulation (maintenance of proper levels of salts and other solutes in bodily fluids) and hinder the organism's survival, growth, and reproduction (Hunt *et al.* 2012, p. 1). Brine contamination has been documented within the pearl darter's historical range in the Pearl River system (Kalhoff 1993, pp. 12–15, 19–20, 25; Kalhoff 1986, p. 49) and within the Pascagoula River basin where it currently occurs, including several Leaf and Chickasawhay River drainage basin tributaries (Kalhoff 1986, pp. 52–63). There is currently no routine water quality monitoring in areas where the pearl darter currently occurs, so it is unlikely that the effects of a leak or spill would be detected quickly enough to allow for a timely response.

Geomorphology Changes

Piller *et al.* (2004, pp. 1004–1011) cited numerous human-caused disturbances within the Pearl River since the 1950s, including channelization, reservoir construction, and channel modification from bank collapse downstream of dams. Specifically, the Pearl River Navigation Canal in 1956, the Ross Barnett Reservoir in 1964, and channel changes of the lower Pearl River (increased width and decreased depth) were implicated in the decline of abundance for several fish species in that system (Piller *et al.* 2004, pp. 1004–1011). These habitat modifications and channel changes resulted in the loss of gravel substrates in places, completely replacing gravel bars with sand or sediment, which are not appropriate substrate for the pearl darter and other species (Tipton *et al.* 2004, pp. 58–60; TNC 2004, p. 5). Tipton *et al.* (2004, pp. 58–60) documented a decrease in fish diversity and abundance within the disturbed reaches as compared with relatively undisturbed reaches. These changes most likely contributed to the decline of the pearl darter in the Pearl River system and potentially threaten the species in the Pascagoula system.

Pearl darters are not found in impounded waters and are intolerant of lentic (standing water) habitats that may be formed by gravel mining or other landscape-altering practices. Incompatible sand and gravel mining and its disruption of topography, vegetation, and flow pattern of streams is considered a major stressor to the Pearl River system where the pearl darter once occurred (TNC 2004, p. 16). In the species' current range in the Pascagoula system, the results of historical sand and gravel dredging impacts have been a concern for the Bouie and Leaf Rivers (MDEQ 2000, pp. 1–98). Historically, the American Sand and Gravel Company (1995, p. B4) has mined sand and gravel using a hydraulic suction dredge, operating within the banks or adjacent to the Bouie and Leaf Rivers. Large gravel bars of the river and its floodplain have been removed over the past 50 years, creating open-water areas that function as deep lake systems (American Sand and Gravel Company 1995, pp. B4–B8). The creation of these large, open-water areas has accelerated geomorphic processes, specifically headcutting (erosional feature causing an abrupt drop in the streambed) that has adversely affected the flora and fauna of many coastal plain streams (Patrick *et al.* 1993, p. 90). Mining in active river channels typically results in incision upstream of the mine by knickpoints (breaks in the slope of a river or stream profile caused by renewed erosion attributed to a bottom disturbance that may retreat upstream), sediment deposition downstream, and an alteration in channel morphology that can have impacts for years (Mossa and Coley 2004, pp. 1–20). The upstream migration of knickpoints, or headcutting, may cause undermining of structures, lowering of alluvial water tables (aquifer comprising unconsolidated materials deposited by water and typically adjacent to rivers), channel destabilization and widening, and loss of aquatic and riparian habitat. This geomorphic change may cause the extirpation of riparian and lotic (flowing water) species (Patrick *et al.* 1993, p. 96).

Sedimentation from unstable banks and loose, unconsolidated streambeds (Bart and Piller 1997, p. 12) is likely impacting the pearl darters in the Bouie River and Black Creek. Mossa and Coley (2004, p. 17) determined that, of the major tributaries in the Pascagoula basin, the Bouie River was the least stable. Channel enlargement of the Bouie River showed higher than background values associated with avulsions (the rapid abandonment of a river channel and the formation of a new river channel) into floodplain pits and increased sedimentation. In addition, channel enlargement of 400 to 500 percent in the Bouie River has occurred at specific sites due to instream gravel mining (Mossa *et al.* 2006, entire; Mossa and Coley 2004, p. 17). Ayers (2014, pp. 43–45) also found significant and lengthy instream channel form changes in the Chickasawhay River floodplain. Clark and Schaefer (2015, pp. 13–14) noted a slight decrease in fish species richness in the upper Pascagoula River basin from their 2004 sampling, which they attributed to past anthropogenic influences such as gravel mining, bankside practices, and construction.

In the Bogue Chitto River of the Pearl River basin, Stewart *et al.* (2005, pp. 268–270) found that the assemblages of fishes had shifted over 27 years. In this time period, the sedimentation rates

within the system had increased dramatically and caused the decrease in the relative abundance of all fish in the family Percidae (Stewart *et al.* 2005, pp. 268–270) from 35 percent to 9 percent, including the extirpation of pearl darters. Ross *et al.* (1992, pp. 8–9) studied threats to the Okatoma Creek (Pascagoula basin) fish diversity and predicted that geomorphic changes to the stream would reduce the fish habitat diversity resulting in a decline of the fish assemblages, including the pearl darter.

Impoundments

Dams and other flow control structures within a river can block fish passage, disrupt the natural flow patterns, and cause channel degradation and erosion (see ''Geomorphology Changes'' section above) that directly impact aquatic life habitat, as well as reduce the capacity of the stream to carry water (TNC 2004, p. 17). Streams with highly altered flow regimes often become wide, shallow, and homogeneous, resulting in poor habitat for many fish species (Bunn and Arthington 2002, pp. 493–498). The decline of the pearl darter in the Pearl River was noted after the construction of low sill dams. Bart (in TNC 2004, p. 5) speculated that, after spawning, young darters in the Pearl River were swept downriver and unable to migrate back upriver due to the low water sills and varied water flow; their limited success year after year likely caused the population to crash. These low sill dams are also thought to have led to the extirpation of the Alabama shad (*Alosa alabamae*) from that system (Mickel *et al.* 2010, p. 158).

The proposed damming of Little and Big Cedar Creeks, tributaries to the Pascagoula River, for establishment of two recreational lakes (George County Lakes) (U.S. Army Corps of Engineers 2015, pp. 1–13) has prompted the American Rivers organization to recently list the Pascagoula River as the 10th most endangered river in the country (American Rivers 2016, pp. 20–21). Though the proposed project is not directly within known pearl darter habitat, the lakes may decrease water quantity entering the lower Pascagoula basin and will likely concentrate pollutants, reduce water flow, and alter downstream food webs and aquatic productivity (Poff and Hart 2002, p. 660).

Summary of Factor A

Habitat modification and resultant water quality degradation are occurring within the pearl darter's current range and likely led to the loss of the species from the Pearl River drainage. Water quality degradation occurs locally from point and nonpoint source pollution in association with land surface, stormwater, and effluent runoff from urbanization, industry, and municipal areas. Of particular concern is the threat of overflooding of storage ponds for industrial effluent, such as that from pulp and paper manufacturing. Increased sediment from a variety of sources, including geomorphological changes and bank instability from past habitat modification, appears to be the major contributor to water quality declines in this species' habitat. Localized sewage and waste water effluent also pose a threat to this species and its habitat. The pearl darter's vulnerability to catastrophic events, particularly the release of pollutants in its habitat from oil spills, train derailments, and hydraulic fracturing, is also a concern due to the abundance of oil wells, pumping stations, gas lines, and railways throughout its habitat, and the increased interest in alternative oil and gas collection methods in the area. The proposed damming of Big and Little Cypress Creeks may decrease water flow and increase nutrient concentration into the Pascagoula River. These threats continue to impact water quality and habitat conditions through much of this species' current range. Therefore, we conclude that habitat degradation is presently a moderate threat to the pearl darter that is expected to continue and possibly increase into the future.

Factor B: Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The pearl darter is not a commercially valuable species, and collecting is not considered a factor in its decline. Therefore, we do not consider overutilization for commercial, recreational, scientific, or educational purposes to be a threat to the pearl darter at this time.

Factor C: Disease or Predation

We have no specific information indicating that disease or predation is negatively impacting pearl darter populations. Therefore, we do not consider these factors to be threats to the pearl darter at this time.

Factor D: The Inadequacy of Existing Regulatory Mechanisms

The State of Mississippi classifies the pearl darter as endangered (Mississippi Natural Heritage Program 2015, p. 2), and prohibits the collection of the pearl darter for scientific purposes without a State-issued collecting permit. However, as discussed under Factor B, we have no evidence to suggest that scientific collection poses a threat to this species. This State classification conveys no legal protection for the pearl darter's habitat nor does it prohibit habitat degradation, which is the primary threat to the species. The pearl darter receives no protection in Louisiana, where it is considered to have historically occurred (Louisiana Department of Wildlife and Fisheries 2005, p. 39).

The pearl darter and its habitats are afforded some protection from water quality and habitat degradation under the Clean Water Act of 1972 (33 U.S.C. 1251 *et seq.*) and the Mississippi Water Pollution Control Law, as amended, 1993 (Code of Mississippi, section 49–17–1, *et seq.*) and regulations promulgated thereunder by the Mississippi Commission on Environmental Quality. Although these laws have resulted in some enhancement in water quality and habitat for aquatic life, particularly in reducing point-source pollutants, they have been inadequate in fully protecting the pearl darter from sedimentation and other nonpoint source pollutants.

The State of Mississippi maintains water-use classifications through issuance of National Pollutant Discharge Elimination System permits to industries, municipalities, and others that set maximum limits on certain pollutants or pollutant parameters. For water bodies on the Clean Water Act section 303(d) list of impaired streams, the State is required to establish a TMDL for the pollutants of concern that will improve water quality to the applicable standard. The establishment of TMDLs for 89 river or stream segments and ratings of fair to poor for 39 percent of the tributaries within the Pascagoula basin are indicative of water pollution impacts within the pearl darter's habitat (MDEQ 2008a, p. 17). TMDLs are not an enforced regulation, and only reflect benchmarks for improving water quality; they have not been successful in reducing water quality degradation within this species' habitat, as these streams continue to remain on the 303(d) list of impaired streams.

Mississippi Surface Mining and Reclamation Law, Miss. Code Ann. section 53–7–1 *et seq.,* and Federal laws regarding oil and gas drilling (42 U.S.C. 6921) are generally designed to protect freshwater resources like the pearl darter, but these regulatory mechanisms do not contain specific provisions requiring an analysis of project impacts to fish and wildlife resources. They also do not contain or provide for any formal mechanism requiring coordination with, or input from, the Service or the

Mississippi Department of Wildlife, Fisheries and Parks regarding the presence of federally endangered, threatened, or candidate species, or other rare and sensitive species. In the case of surface mining, penalties may be assessed if damage is serious, but there is no immediate response for remediation of habitats or species. As demonstrated under Factor A, periodic declines in water quality and degradation of habitat for this species are ongoing despite these protective regulations. These mechanisms have been inadequate to protect the species from sediment runoff and turbidity within its habitat associated with land surface runoff and municipal and industrial discharges, as described under Factor A. There are currently no requirements within the scope of other statewide environmental laws to specifically consider the pearl darter or ensure that a project will not significantly impact the species.

The pearl darter likely receives ancillary protection (*i.e.,* water quality improvements, protection from geomorphological changes) where it co-occurs with two other federally listed species, the Gulf sturgeon (*Acipenser oxyrhynchus desotoi*) and yellow-blotched map turtle (*Graptemys flavimaculata*), during the course of consultation on these species under section 7 of the Act. However, protective measures through section 7 of the Act would be triggered only for those projects having a Federal nexus, which would not include many of the water quality disturbances caused by industry, municipalities, agriculture, or private landowners.

Additional protection of 53,520 hectares (ha) (132,128 acres (ac)) within the Pascagoula basin watershed occurs due to the Mississippi Wildlife, Fisheries and Parks' management of six Wildlife Management Areas (WMAs) within the upper drainage basin for recreational hunting and fishing. Four of the six WMAs (Chickasawhay and Leaf Rivers, Mason and Red Creeks) do not directly border the river system, but they do contain and protect parcels of upland buffer, wetland, and tributaries to the basin. The Pascagoula River and Ward Bayou WMAs (20,329 ha; 50,234 ac) consist of wetland buffer and river/stream reach protecting approximately 106 km (66 mi) of the Pascagoula River main stem (Stowe *in litt.* 2015). The Nature Conservancy (TNC) protects 14,164 ha (35,000 ac) within the Pascagoula River watershed and approximately 10 km (6 mi) of the Pascagoula River shoreline in Jackson County, Mississippi. Of that amount, the Charles M. Deaton Nature Preserve (1,336 ha, 3,300 ac) protects the upper reaches of the Pascagoula River, where the Leaf and Chickasawhay Rivers converge, and is part of a 19,020-ha (47,000-ac) swath of public lands surrounding the Pascagoula River, which includes approximately 8 km (5 mi) of the Chickasawhay River and approximately 7 km (4 mi) of the Leaf River shorelines (Stowe *in litt.* 2015).

These State-managed WMAs and TNC preserves provide a measure of protection for approximately 134 km (84 mi) or 30 percent of the river reaches within this species' current range. Point and nonpoint sediment sources are decreased or reduced by using and monitoring certified BMPs during silviculture, road maintenance, and other landscape-altering activities. However, only short segments of shoreline in the Chickasawhay and Leaf Rivers are within these WMAs. Remaining lands within these segments can be vulnerable to farming and timbering to the bankside edge, and construction of structures such as houses, septic facilities, dams, and ponds. Each land management action can increase stormwater runoff laden with sediment and agricultural and wastewater chemicals. The impact of silvicultural activities on water quality degradation are likely lower than other land-altering activities according to information in the Mississippi Forestry Commission's report (2016, entire) that found certified BMP implementation rates to be high across all silvicultural landscapes in Mississippi.

Summary of Factor D

Despite existing authorities such as the Clean Water Act, pollutants continue to impair the water quality throughout much of the current range of the pearl darter. State and Federal regulatory mechanisms have helped reduce the negative effects of point source and nonpoint source discharges, yet these regulations are difficult to implement, and may not provide adequate protection for sensitive species like the pearl darter. Thus, we conclude that existing regulatory mechanisms do not adequately protect the pearl darter from the impact of other threats.

Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence

Small Population Size and Loss of Genetic Diversity

The pearl darter has always been considered rare (Deacon *et al.* 1979, p. 42) and is currently restricted to localized sites within the Pascagoula River drainage. Genetic diversity has likely declined due to fragmentation and separation of reproducing pearl darter populations. Kreiser *et al.* (2012, pp. 12–17) found that disjunct populations of pearl darters within the Leaf and Chickasawhay Rivers showed some distinct alleles suggesting that gene flow between the two rivers was restricted and perhaps that the total gene pool diversity was declining. Collecting data (Ross 2001, p. 500; Bart and Piller 1997, p. 4; Bart and Suttkus 1996, p. 4; Suttkus *et al.* 1994, p. 19) indicate that the pearl darter is rare in the Pascagoula River system, as when this species is collected it is typically in low numbers and a disproportionately low percentage of the total fish collected (catch per unit effort of 2.1 individuals per site, Clark and Shaefer 2015, p. 4).

Species that are restricted in range and population size are more likely to suffer loss of genetic diversity due to genetic drift, potentially increasing their susceptibility to inbreeding depression, decreasing their ability to adapt to environmental changes, and reducing the fitness of individuals (Allendorf and Luikart 2007, pp. 117–146; Soulé 1980, pp. 157–158). It is likely that some of the pearl darter populations are below the effective population size required to maintain long-term genetic and population viability (Soulé 1980, pp. 162–164).

The long-term viability of a species is founded on the conservation of numerous local populations throughout its geographic range (Harris 1984, pp. 93–104). The presence of viable, separate populations is essential for a species to recover and adapt to environmental change (Noss and Cooperrider 1994, pp. 264–297; Harris 1984, pp. 93–104). Inbreeding and loss of neutral genetic variation associated with small population size reduces the fitness of the population (Reed and Frankham 2003, pp. 230–237) and accelerates population decline (Fagan and Holmes 2006, pp. 51–60). The species' small numbers within scattered locations, coupled with its lack of genetic variability, may decrease the species' ability to adapt or recover from major hydrological events that impact potential spawning habitat (Clark and Schaefer 2015, pp. 18–22).

Hurricanes

Fish and aquatic communities and habitat, including that of the pearl darter, may be changed by hurricanes (Schaefer *et al.* 2006, pp. 62–68). In 2005, Hurricane Katrina destroyed much of the urban and industrial areas along the lower Pascagoula River basin and also impacted the ecology upriver to the confluence with the Leaf and

Chickasawhay Rivers. Many toxic chemicals that leaked from grounded and displaced boats and ships, storage facilities, vehicles, septic systems, business sites, and other sources due to the hurricane were reported in the rivers, along with saltwater intrusion from the Gulf of Mexico. Initial assessment identified several fish kills and increased surge of organic material into the waters, which lowered dissolved oxygen levels (Schaefer *et al.* 2006, pp. 62–68). As discussed below, the deleterious impacts of climate change will likely lead to an increase in the strength and frequency of hurricanes.

Climate Change

Numerous long-term climate changes have been observed including widespread changes in precipitation amounts, ocean salinity, wind patterns, and aspects of extreme weather including droughts, heavy precipitation, heat waves, and the intensity of tropical cyclones (Intergovernmental Panel on Climate Change 2014, p. 4). Climate change, and the resultant shifts in spatial distribution, may result in increased fragmentation which would increase the vulnerability of any isolated populations to future extinction (Comet *et al.* 2013, p. 635). However, while continued change is certain, the magnitude and rate of change is unknown in many cases.

Climate change has the potential to increase the vulnerability of the pearl darter to random catastrophic events (Thomas *et al.* 2004, pp. 145–148; McLaughlin *et al.* 2002, pp. 6060–6074). An increase in both severity and variation in climate patterns is expected, with extreme floods, strong storms, and droughts becoming more common (Intergovernmental Panel on Climate Change 2014, pp. 58–83). Thomas *et al.* (2004, pp. 145–148) report that frequency, duration, and intensity of droughts are likely to increase in the Southeast as a result of global climate change. Kaushal *et al.* (2010, p. 465) reported that stream temperatures in the Southeast have increased roughly 0.2–0.4 °C (0.3–0.7 °F) per decade over the past 30 years, and as air temperature is a strong predictor of water temperature, stream temperatures are expected to continue to rise. Predicted impacts of climate change on fishes, related to drought, include disruption to their physiology (*e.g.,* temperature tolerance, dissolved oxygen needs, and metabolic rates), life history (*e.g.,* timing of reproduction, growth rate), and distribution (*e.g.,* range shifts, migration of new predators) (Comte *et al.* 2013, pp. 627–636; Strayer and Dudgeon 2010, pp. 350–351; Heino *et al.* 2009, pp. 41–51; Jackson and Mandrak 2002, pp. 89–98). However, estimates of the effects of climate change using available climate models typically lack the geographic precision needed to predict the magnitude of effects at a scale small enough to discretely apply to the range of a given species. Therefore, there is uncertainty about the specific effects of climate change (and their magnitude) on the pearl darter. However, climate change is almost certain to affect aquatic habitats in the Pascagoula River basin through increased water temperatures resulting in stronger storm surges and more frequent droughts (Alder and Hostetler 2013, pp. 1–12), and species with limited ranges, fragmented distributions, and small population sizes are thought to be especially vulnerable to the effects of climate change (Byers and Norris 2011, p. 18).

Summary of Factor E

The pearl darter's limited geographic range, fragmented distribution within the Pascagoula River system, small population numbers, and low genetic diversity threaten this species' long-term viability. These threats are current and are likely to continue or increase in the future, and would be exacerbated by climate change.

Cumulative Effects of Factors A Through E

The threats that affect the pearl darter are important on a threat-by-threat basis but are even more significant in combination. Due to the loss of the species from the Pearl River system, the pearl darter is now confined to a single drainage system. The species continues to be subjected to water quality degradation from point and nonpoint source pollution in association with land-altering activities, discharges from municipalities, and geomorphological changes from past gravel mining. The laws and regulations directed at preventing water quality degradation have been ineffective at providing for the conservation of the pearl darter. Furthermore, these threats and their effect on this species are exacerbated due to the pearl darter's small population numbers, localized distribution, and low genetic diversity, which reduce its genetic fitness and resilience to possible catastrophic events. Though projecting possible synergistic effects of climate change on the pearl darter is somewhat speculative, climate change, and its effects of increased water temperatures leading to stronger storms and more frequent droughts, will have a greater negative impact on species with limited ranges and small population sizes, such as the pearl darter. While these threats or stressors may act in isolation, it is more probable that many stressors are acting simultaneously (or in combination) on the pearl darter, having a greater cumulative negative effect than any individual stressor or threat.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the pearl darter. The pearl darter has been extirpated from the Pearl River system, and it is now confined to the Pascagoula River watershed. The species occurs in low numbers within its current range, and continues to be at risk throughout all of its range due to the immediacy, severity, and scope of threats from habitat degradation and range curtailment (Factor A) and other natural or manmade factors affecting its continued existence (Factor E). Existing regulatory mechanisms have been inadequate in ameliorating these threats (Factor D).

Anthropogenic activities, such as general land development, agriculture and silviculture, oil and gas development (especially when BMPs were not implemented during these activities), along with inadequate sewage treatment, uncontrolled stormwater runoff, pulp mill effluent, past gravel mining and resultant geomorphological changes, and construction of dams or sills, have all contributed to the degradation of stream habitats and water quality within this species' range (Factor A). These land use activities have led to chemical and physical changes in the main stem rivers and tributaries that continue to affect the species through negative impacts to its habitat. Specific water quality threats include inputs of sediments covering bottom stream substrates, increased turbidity, and inputs of dissolved solids. These threats, especially the inputs of dissolved solids, chemical-laden effluent, sedimentation, and geomorphic changes, have had profound negative effects on pearl darter populations, as demonstrated in the Pearl River basin, and have been the primary factor in the species' decline. Existing regulatory mechanisms (*e.g.,* the Clean Water Act) have provided for some improvements in water quality and habitat conditions across the species' range, but these laws and regulations have been inadequate in protecting the species' habitat (Factor D), as evidenced by the extirpation of the species within the Pearl River basin and by the number of section 303(d) listed streams within the species'

historical and current range. The pearl darter's vulnerability to these threats is even greater due to its reduced range, scattered locations of small populations, and low genetic diversity (Factor E).

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that the pearl darter is likely to become endangered throughout all or a significant portion of its range within the foreseeable future, based on the immediacy, severity, and scope of the threats currently impacting the species. Foreseeable future for this species was determined to be approximately 20 years, which is based on our best professional judgement of the projected future conditions related to threats identified impacting this species. The overall range has been reduced substantially, and the remaining habitat and populations are threatened by a variety of factors acting in combination to reduce the overall viability of the species over time. The threats are not expected to change substantially within this 20-year timeframe, as water quality degradation continues to pose a risk locally despite existing regulations, and land development and land-altering activities are expected to increase. The risk of becoming endangered during this time is high because populations confined to this single watershed are fragmented and genetic diversity within the species is low. Many of the populations are small and likely below the effective population size needed to maintain long-term population viability which makes this species particularly vulnerable to catastrophic events. Though there is uncertainty about the magnitude of effects of climate change on the pearl darter, the frequency and intensity of storms affecting the Pascagoula River watershed are evident today and predicted to increase during this timeframe.

We find that endangered species status is not appropriate for this species. Despite low population numbers and numerous threats, the Chickasawhay and Leaf Rivers, within the upper Pascagoula River drainage, appear to support reproducing populations. In addition, the magnitude of threats is considered to be moderate overall, since the threats are having a localized impact on the species and its habitat. For example, water quality degradation, the most prevalent threat, is not as pervasive within areas where BMPs are utilized, and geomorphic changes caused by historic sand and gravel mining are also sporadic within its habitat. Therefore, on the basis of the best available scientific and commercial information, we are listing the pearl darter as threatened in accordance with sections 3(6) and 4(a)(1) of the Act.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the pearl darter is threatened throughout all of its range, no portion of its range can be ''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37577, July 1, 2014). While it is the Service's position under the Policy that undertaking no further analysis of ''significant portion of its range'' in this circumstance is consistent with the language of the Act, we recognize that the Policy is currently under judicial review, so we also took the additional step of considering whether there could be any significant portions of the species' range where the species is in danger of extinction. We evaluated whether there is substantial information indicating that there are any portions of the species' range: (1) That may be ''significant,'' and (2) where the species may be in danger of extinction. In practice, a key part of identifying portions appropriate for further analysis is whether the threats are geographically concentrated. The threats affecting the species are throughout its entire range; therefore, there is not a meaningful geographical concentration of threats. As a result, even if we were to undertake a detailed ''significant portion of its range'' analysis, there would not be any portions of the species' range where the threats are harming the species to a greater degree such that it is in danger of extinction in that portion.

Critical Habitat

Section 3(5)(A) of the Act defines critical habitat as ''(i) the specific areas within the geographical area occupied by the species, at the time it is listed...on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed...upon a determination by the Secretary that such areas are essential for the conservation of the species.''

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that we designate critical habitat at the time a species is determined to be an endangered or threatened species, to the maximum extent prudent and determinable. In our September 21, 2016, proposed rule to list the darter (81 FR 64857), we determined that designation of critical habitat was prudent. We also found that critical habitat for the pearl darter was not determinable because the specific information sufficient to perform the required analysis of the impacts of the designation is currently lacking, such as information on areas to be proposed for designation and the potential economic impacts associated with designation of these areas. We are continuing the process of obtaining information on the economic impacts of our critical habitat designation, and, once this process is completed, we intend to publish our proposed critical habitat designation for the pearl darter in the **Federal Register** and request public input.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*) or from our Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribal, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires additional cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Mississippi will be eligible for Federal funds to implement management actions that promote the protection or recovery of the pearl darter. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the pearl darter. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(1) requires Federal agencies to utilize their authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of endangered and threatened species listed pursuant to section 4 of the Act. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require consultation as described in the preceding paragraph include actions on lands under ownership by the U.S. Army Corps of Engineers, the issuance of section 404 Clean Water Act permits by the U.S. Army Corps of Engineers, construction and maintenance of gas and oil pipelines and power line rights-of-way by the Federal Energy Regulatory Commission, Environmental Protection Agency pesticide registration, construction and maintenance of roads or highways by the Federal Highway Administration, and funding of various projects administered by the U.S. Department of Agriculture's Natural Resources Conservation Service and the Federal Emergency Management Agency.

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened species. The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to threatened wildlife. The prohibitions of section 9(a)(1) of the Act, as applied to threatened wildlife and codified at 50 CFR 17.31, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. Based on the best available information, the following actions are unlikely to result in a violation of section 9, if these activities are carried out in accordance with existing regulations, permit requirements, or certification programs; this list is not comprehensive:

(1) Normal agricultural and silvicultural practices, including herbicide and pesticide use, which are carried out in accordance with existing regulations, permit and label requirements, and certified best management practices (*i.e.,* Sustainable Forestry Initiative, Forest Stewardship Council, and American Tree Farm System).

(2) Normal residential and urban landscape activities, such as mowing, edging, fertilizing, etc.

(3) Normal pipeline/transmission line easement maintenance.

(4) Normal bridge, culvert, and roadside maintenance consistent with

appropriate best management practices for these activities.

Based on the best available information, the following activities may potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Unauthorized handling or collecting of the species.

(2) Introduction of nonnative fish that compete with or prey upon the pearl darter.

(3) Unlawful discharge or dumping of toxic chemicals, contaminants, sediments, fracking and oil waste water, waste water effluent, or other pollutants into waters supporting the pearl darter that kills or injures individuals, or otherwise impairs essential life-sustaining behaviors such as spawning, feeding, or sheltering.

(4) Destruction or alteration of the species' habitat (*e.g.,* unpermitted instream dredging, impoundment, water diversion or withdrawal, channelization, discharge of fill material, modification of tributaries, channels, or banks) that impairs essential behaviors such as spawning, feeding, or sheltering, or results in killing or injuring a pearl darter.

(5) Unpermitted gravel mining, oil and gas processes, silviculture, and agricultural processes that result in direct or indirect destruction of riparian bankside habitat or in channel habitat in waters supporting the pearl darter that kills or injures individuals, or otherwise impairs essential life-sustaining behaviors such as spawning, feeding, or sheltering.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act, need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. The pearl darter is not known to occur within any tribal lands or waters.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Mississippi Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by adding an entry for ''Darter, Pearl'' to the List of Endangered and Threatened Wildlife in alphabetical order under ''FISHES'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
FISHES				
*	*	*	*	*
Darter, Pearl	*Percina aurora*	Wherever found	T	82 FR [insert **Federal Register** page where the document begins], 9/20/2017.
*	*	*	*	*

Date: September 7, 2017.

James W. Kurth,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–20069 Filed 9–19–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2016–0103; 4500030113]

RIN 1018–AZ02

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Sonoyta Mud Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), list the Sonoyta mud turtle (*Kinosternon sonoriense longifemorale*), a turtle from Arizona in the United States and Sonora in Mexico, as an endangered species under the Endangered Species Act of 1973 (Act), as amended. This rule adds the Sonoyta mud turtle to the Federal List of Endangered and Threatened Wildlife and extends the Act's protections to this subspecies.

DATES: This rule is effective October 20, 2017.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and at *http://www.fws.gov/southwest/es/arizona/.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* Comments, materials, and documentation that we considered in this rulemaking will be available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 9828 North 31st Ave #C3, Phoenix, AZ 85051–2517; telephone 602–242–0210.

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 9828 North 31st Ave #C3, Phoenix, AZ 85051–2517; telephone 602–242–0210. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Previous Federal Action

Please refer to the proposed listing rule for the Sonoyta mud turtle (81 FR 64829; September 21, 2016) for a detailed description of previous Federal actions concerning this subspecies.

Background

We completed a comprehensive assessment of the biological status of the Sonoyta mud turtle, and prepared a report of the assessment, which provides a thorough account of the subspecies' overall viability. We define viability as the ability of the subspecies to persist over the long term and avoid extinction. In this section, we summarize the conclusions of that assessment, which can be accessed at Docket No. FWS–R2–ES–2016–0103 on *http://www.regulations.gov* and at *http://www.fws.gov/southwest/es/arizona/.* The Sonoyta mud turtle's Species Status Assessment (SSA Report; Service 2017, chapter 4) contains a detailed discussion of our evaluation of the biological status of the Sonoyta mud turtle and the influences that may affect its continued existence.

To assess Sonoyta mud turtle viability, we used the three conservation biology principles of resiliency, representation, and redundancy (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years); representation supports the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes); and redundancy supports the ability of the species to withstand catastrophic events (for example, droughts). In general, the more redundant, representative, and resilient a species is, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the Sonoyta mud turtle's ecological requirements for survival and reproduction at the individual, population, and subspecies levels, and described the beneficial and risk factors influencing the subspecies' viability.

We evaluated the change in resiliency, representation, and redundancy from the past until the present, and projected the anticipated future states of these conditions. To forecast the biological condition into the future, we devised plausible future scenarios by using expert information on the primary stressors anticipated in the future to the Sonoyta mud turtle: habitat loss and degradation (*i.e.,* surface water loss and riparian vegetation loss), effects of climate change, and small population dynamics. To assess population resiliency of the Sonoyta mud turtle, we evaluated habitat conditions and recruitment over time. To assess representation (as an indicator of adaptive capacity) of the Sonoyta mud turtle, we evaluated the ecological and genetic diversity and connectivity over time. To assess redundancy, we calculated the risk of population extirpations given the catastrophic events. That is, we tallied the number of populations historically, currently, and projected into the future to assess the viability of the subspecies.

Subspecies Description

The Sonoyta mud turtle is a freshwater turtle encountered in or near water in an otherwise arid environment that commonly experiences drought and extreme heat (ambient temperatures can exceed 45 degrees Celsius (°C) (113 degrees Fahrenheit (°F)). The Sonoyta mud turtle is one of two recognized subspecies of Sonora mud turtle (*Kinosternon sonoriense*) and has been differentiated from the other subspecies based on shell measurements and DNA analysis (Iverson 1981, p. 62; Rosen 2003, entire; Rosen *et al.* 2006, entire). The other subspecies, *K. s. sonoriense,* is commonly referred to as Sonora mud turtle. The Sonoyta mud turtle is an isolated, native endemic found in southern Arizona and northern Sonora, Mexico. The Sonoyta mud turtle is a dark, medium-sized freshwater turtle with a mottled pattern on the head, neck, and limbs. Average lifespan is from 10 to 12 years; however, one has been reported to be 39 years old.

Minimum age of sexual maturity of female Sonoyta mud turtles is just under 6 years, and males around 4 years (Rosen and Lowe 1996, pp. 14–16). Mating occurs in water from April to late June. Ovulation and shelling of eggs begins in June, and eggs remain in the oviducts until the monsoon rains occur from mid to late July through September (van Loben Sels *et al.* 1997, p. 343). In mid to late July through September, females leave the water briefly to lay eggs in terrestrial nests. Eggs may undergo embryonic diapause (delayed embryo development) in the nest for up to 11 months after being laid. Development begins as eggs warm during the following spring and takes about 80 days, and hatchlings emerge and disperse from the nest the following year to coincide with the onset of summer rains (van Lobel Sels *et al.* 1997, p. 343; Ernst and Lovich 2009, p. 497; Stone *et al.* 2015, p. 735).

Habitat and Range

The Sonoyta mud turtle is found in southern Arizona and northwestern Mexico and depends on aquatic habitat with adjacent terrestrial habitat. Its habitats commonly experience drought and extreme heat. Historically, the Sonoyta mud turtle was limited in its

distribution to the Rio Sonoyta basin in Arizona and Sonora, Mexico. There are five historical records of the subspecies being found within three historical perennial sections of the Rio Sonoyta, including the Sonoyta, Santo Domingo, and Papalote (also referred to as Agua Dulce) reaches (Rosen *et al.* 2010, p. 152), which we assume supported three populations. Perennial waters likely flowed through these three sections of the Rio Sonoyta separated by seasonally ephemeral sections (figure 3.1.1.b of the SSA Report), and groundwater also supported springs and cienegas (wet, marshy areas) in the area (Miller and Fuiman 1987, p. 602; Schoenherr 1988, p. 110; Hendrickson and Varela-Romero 1989, p. 481). These three distinct perennial reaches of the Rio Sonoyta together likely provided 19 to 27 kilometers (km) (12 to 17 miles (mi)) of stream habitat for the Sonoyta mud turtle. The Rio Sonoyta probably flowed for short periods during wet seasons, providing connectivity for mud turtles, with the stream rapidly retracting during the dry season, as it still does today. During periods of above-average precipitation, the river may have been continuous for longer periods, making turtle population connectivity more likely along Rio Sonoyta. We assume that the historical locations of the Sonoyta mud turtles were in areas of the Rio Sonoyta basin that maintained perennial surface water at all times except, possibly, during rare, protracted drought periods. These locations may no longer have reliable surface water to support mud turtles or sufficient surface water to support as large a population as they used to (Paredes-Aguilar and Rosen 2003, p. 2; Rosen *et al.* 2010, p. 155). Perennial water also existed outside of the Rio Sonoyta in cienegas such as one fed by Quitobaquito Springs on Organ Pipe Cactus National Monument. Quitobaquito Springs is predominately supplied by groundwater (Carruth 1996, pp. 14, 18).

In the SSA Report, we define a population of Sonoyta mud turtles as a group of interbreeding individuals living in an ecological community and separated from other populations by barriers including desert upland (overland, not connected by riparian or xeroriparian habitat) or in-channel distances that lack water most of the time. Currently, five populations of Sonoyta mud turtles occur. Three of these populations are historical populations—Quitobaquito Springs, and the Sonoyta and Papalote reaches of the Rio Sonoyta. However, the Sonoyta reach has now been reduced to a much smaller reach referred to as Xochimilco. There are two new populations—the Sonoyta sewage lagoon and Quitovac in Mexico, which were historically unknown and only discovered in 2002 but likely were present since the 1990s (Knowles *et al.* 2002, p. 74). These two new populations are not connected hydrologically to each other or to the Rio Sonoyta populations and it is likely that humans transplanted turtles from the Rio Sonoyta to these sites. One other historical population is considered extirpated—Santo Domingo. Of the five extant populations, one is in the United States in the pond and channel associated with Quitobaquito Springs in Organ Pipe Cactus National Monument, Arizona. The other four populations are in Sonora, Mexico (Rosen *et al.* 2010, p. 152). Two populations in the Rio Sonoyta in the Papalote reach and Xochimilco reach are extant, but perennial water flow in these reaches is reduced from historical levels. Since these perennial reaches in the Rio Sonoyta are greatly reduced or gone, the connectivity among these remaining populations is highly unlikely. The other two extant populations are the Sonoyta sewage lagoon and Quitovac in Mexico. Quitovac consists of multiple springs impounded to form a pond. The Sonoyta sewage lagoon site consists of two lagoons of raw sewage. A new wastewater treatment plant has been constructed to replace the Sonoyta sewage lagoons. However, this new plant has yet to begin operating and it is unclear when it will open. The amount of water and riparian vegetation provided at the new plant is less than that provided at the sewage lagoons and only a portion of the Sonoyta mud turtles are likely to be transplanted.

The population at Quitobaquito Springs has been extensively monitored since the early 1980s. Surveys in the Rio Sonoyta basin in Sonora, Mexico, from 2001 through 2006 provide most of our knowledge of the current populations in Mexico (table 3.2.2 of the SSA Report; Paredes-Aguilar and Rosen 2003, entire; Knowles *et al.* 2002, entire; Rosen *et al.* 2010, pp. 152–153). However, we have low confidence that the population sizes for the Sonora populations remain at 2006 levels today, as many changes since the early 2000s have reduced or degraded habitat at most of the sites that still support Sonoyta mud turtles. In October 2001, a single turtle was found in a soup-bowl-sized remnant of water at the semi-perennial spring in the Santo Domingo reach (Santo Domingo is in the Rio Sonoyta and is the location of one of the five historical records of Sonoyta mud turtle listed above; Rosen *et al.* 2010, pp. 152–153), and we now think this historical population is likely extirpated due to loss of perennial surface water in this reach (Rosen 2016, pers. comm.).

Species Needs

Sonoyta mud turtles depend on aquatic habitat for foraging, shelter, and mating and terrestrial habitat for nesting and estivating. The Sonoyta mud turtle historically occupied habitat in cienegas and streams supported by groundwater-fed springs. Natural aquatic habitats of Sonoyta mud turtles are sustained by groundwater discharged from springs and augmented by seasonal rainfall. Terrestrial habitat that maintains soil moisture needed for Sonoyta mud turtles occurs in riparian areas along the banks of ponds and streams, including intermittently dry sections of a stream channel. However, natural aquatic habitats are highly limited. Sonoyta mud turtles can also be sustained by modified natural habitats or completely human-created habitats that provide similar permanent or almost permanent surface water. Currently, populations still occur within stream habitat, but all the cienegas have been modified from their natural state.

For the Sonoyta mud turtle to maintain viability, its populations, or some portion of its populations, must be resilient enough to withstand stochastic events such as fluctuations in water levels, habitat modification, and introduction of nonnative predators. In the SSA Report, we categorized the potential resiliency of populations of the subspecies. We developed four different resiliency levels: High, medium, low, and none. In a highly resilient Sonoyta mud turtle population, all or the majority of turtles are able to complete their life functions, breeding maintains a stable or increasing population, and the population is able to withstand stochastic events or recover from stochastic events from connected populations. Influencing those factors are elements of Sonoyta mud turtle habitat that determine whether survivorship among age classes is achieved, thereby increasing the resiliency of populations. These factors include perennial or near perennial water (*i.e.,* 10 to 11 months annually for consecutive years) of sufficient volume and extent with connectivity to other populations, terrestrial riparian habitat with soil moisture, high invertebrate prey abundance, and lack of problem nonnative species. The factors used to develop these resiliency levels are discussed below.

TABLE 1—POPULATION RESILIENCY CATEGORIES FOR SONOYTA MUD TURTLE

High (Good)	Moderate	Low	None
A population with high resilience is where: • All or the majority of turtles are able to complete their life functions; • Breeding is successful to maintain a stable or increasing population; • Population is able to withstand stochastic events or recover from stochastic events from connected populations.	A population with moderate resilience is where: • Some turtles can complete life functions; • Some turtles have some successful breeding, but population is not increasing; • Population could be stable or decreasing; • Population could withstand some stochastic events or a portion of the population could withstand stochastic events, but population is not able to recover through the immigration of connected populations.	A population with low resilience is one where: • Some or few turtles can complete life functions; • Some or few turtles have successful breeding, but population is decreasing; • Population is not able to withstand stochastic events, and is not able to recover through the immigration of connected populations.	A population with no resiliency is one that might be extirpated completely.

Surface Water

Sonoyta mud turtles require perennial or mostly perennial water to complete their life-history functions and avoid desiccation. We define near-perennial as water present more than 10 to 11 months of the year for multiple years. Aquatic habitat in ponds and streams with water 2 meters (m) (6.5 feet (ft)) deep, with a rocky, muddy, or sandy substrate, and emergent or submergent vegetation, or both is needed (NPS 2015, p. 2; Paredes-Aguilar and Rosen 2003, p. 5–7; Rosen 2003, p. 5; Rosen *et al.* 2010, p. 14). Hatchling, juvenile, and subadult turtles prefer aquatic habitat with shallow water and dense emergent vegetation and overhanging vegetation along the stream channel or pond margin that provides foraging opportunities as well as protection from predators (Rosen 1986, pp. 14 and 36; Rosen and Lowe 1996, p. 11). Adults will also use shallow water habitat, but prefer aquatic habitat with accessible, deeper, open water (up to 2 m (6.5 ft)) when available, and submerged vegetation for feeding on benthic and plant-crawling invertebrates along the substrate (Rosen 1986, pp. 14, 16; Rosen and Lowe 1996, p. 11). Adults, juveniles, and subadults also use aquatic habitat with structure that provides protection from predators such as root masses, complex rock features, and undercut banks. Turtle recruitment can be affected by the amount of surface water available, how long it is available, as well as its fluctuation. In addition, hydrologic connectivity is needed for a population to recover from a stochastic event.

Terrestrial Habitat

Sonoyta mud turtles need terrestrial habitat that maintains soil moisture for Sonoyta mud turtles in riparian areas along the banks of ponds and streams, including intermittently dry sections of stream channels. Riparian habitat provides shadier, cooler, and moister conditions than the adjacent upland areas. Sonoyta mud turtles likely need moist soil for nesting to prevent desiccation of eggs and estivation sites to prevent desiccation of juveniles and adults. Riparian vegetation may also provide some level of protection from terrestrial predators while turtles are out of the water. Sonoyta mud turtles further need accessible shoreline without insurmountable rock or artificial vertical barriers to allow for movement between wetted sites, between aquatic habitat and terrestrial nest sites, and between water and estivation sites.

Invertebrate Prey

Sonoyta mud turtle hatchlings and juveniles need shoreline invertebrate fauna, while subadults and adults need bottom dwelling (*i.e.* on or in the sediment) and plant-crawling invertebrates. Aquatic habitat with emergent and submerged vegetation or the substrate of ponds and streams is needed to support prey for Sonoyta mud turtles (Rosen 1986, pp. 14, 31; Rosen and Lowe 1996, pp. 32–35). Aquatic invertebrates primarily live on and require a variety of prey such as algae, diatoms, and other microorganisms. In habitats with poor aquatic invertebrate faunas, Sonoyta mud turtles will shift to omnivorous feeding, including plants and vertebrates. When invertebrates are abundant, and competition is low, turtles grow rapidly and have sufficient fat content to support reproduction.

Nonnative Predators and Competitors

Sonoyta mud turtles need aquatic habitat free of problematic nonnative predators and competitors such as crayfish, American bullfrogs, sunfish, black bullheads, African cichlid fishes (tilapia), western mosquitofish, and exotic turtles. Competition between nonnative species and mud turtles for food likely results in disruption of the food chain and alteration of the invertebrate community (Taylor *et al.* 1984, pp. 330–331; Fernandez and Rosen 1996, pp. 39–40; Duncan 2013, p. 1). Such competition, in turn, likely decreases the type and amount of aquatic invertebrate prey available to Sonoyta mud turtles (Fernandez and Rosen 1996, pp. 39–40) and leads to lower fitness of turtles.

Sonoyta mud turtles need genetic or ecological diversity to adapt to changing environmental conditions. The more representation, or diversity, a species has, the more it is capable of adapting to changes (natural or human-caused) in its environment. Representation can be measured by the breadth of genetic or environmental diversity within and among populations and gauges the probability that a species is capable of adapting to environmental changes. Currently, the Sonoyta mud turtle exhibits genetic and ecological diversity. Maintaining gene flow among populations and counteracting genetic drift and deleterious effects of inbreeding connectivity among populations are needed. A minimum of 1 and maximum of 10 migrants per generation is needed to successfully breed in populations of a species (Mills and Allendorf 1996, p. 1517; Nathan *et al.* 2017, p. 270; Wang 2004, p. 341). This is a large range of migrants per generation, and we do not know where within this range the Sonoyta mud turtle falls to maintain genetic diversity among the fragmented populations of the subspecies. Genetic analysis conducted in the mid-2000s reveals that successful migration has likely occurred

in the past (Rosen 2006, p. 10). Maintaining representation in the form of genetic or ecological diversity is important to maintain the Sonoyta mud turtle's capacity to adapt to future environmental changes.

The Sonoyta mud turtle needs multiple resilient populations spread over its historical range distributed in such a way that a catastrophic event will not result in the loss of all populations. In addition, hydrologic connectivity is needed for a population to recover from a catastrophic event. We do not have an estimate of how many populations are needed to withstand localized loss of habitat and maintain redundancy. However, the loss of Quitobaquito Springs, Quitovac, and either Rio Sonoyta Papalote or Rio Sonoyta Xochimilco would reduce the representation for the subspecies.

Summary of Biological Status and Threats

The primary negative factor affecting the future viability of the Sonoyta mud turtle is continued loss of water that supports aquatic and riparian habitat. The sources of water loss affecting Sonoyta mud turtles include groundwater pumping, drought, changes to wastewater infrastructure, consumption by livestock, surface water diversion, and habitat manipulation. Of these sources, water loss caused by drought and groundwater pumping, both of which are exacerbated by climate change and changes to wastewater infrastructure, are the primary causes of population-level impacts to the Sonoyta mud turtle. The other sources of water loss are not likely to have population-level impacts unless mining near Quitovac is intensified and unregulated. However, the Quitovac site is routinely dredged, resulting in direct impacts to Sonoyta mud turtles and prey. All of these factors are additive in terms of impacts to populations that are already stressed by the primary activities causing population-level impacts. In addition, impacts from climate change (discussed below) are expected to exacerbate water loss.

Ground water pumping impacts the amount of surface water in areas used by Sonoyta mud turtles because the perennial sections of the Rio Sonoyta as well as the pond at Quitobaquito Springs and Quitovac are supplied by ground water. Diminished water reduces the amount of space, prey, and cover (from predators and for estivation) available to mud turtles. Reduction in aquatic habitat (*i.e.,* space) leads to crowding and increased competition for limited resources (Stanila 2009, p. 45). Sonoyta mud turtles in dry or low surface water reaches will burrow in channels to escape desiccation for a short period of time. However, the ability of Sonoyta mud turtles to estivate may depend on behavioral cues provided by the level of permanence of water they reside in (Ligon and Stone 2003, p. 753; Stanila 2009, p. 45). After time, burrows themselves may become too dry; turtles will lose fat reserves due to lack of foraging opportunity; females may not have viable eggs due to lack of nutrition and fat reserves, thereby reducing reproduction; and eventually turtles will die from either starvation or desiccation. If water is not reliably present all year and absent beyond the dry season, turtles are not able to forage; may not reproduce; and, as drought periods lengthen, may eventually desiccate (Stanila 2009, p. 45).

Sonora mud turtles that live in permanent bodies of water have shown highly aquatic behavior with little terrestrial behavior or movement between water sources, while Sonora mud turtles in more ephemeral habits have been documented moving through or out of dry stream beds to reach wetted pools, for winter hibernation, or for estivation during drought as a drought-survival strategy (Hall and Steidl, 2007, pp. 406–408; Hensley *et al.* 2010, pp. 181–182; Ligon and Stone 2003, pp. 752–753; Stone 2001, pp. 46–51). Prolonged and recurrent estivation is expected to reduce fitness and increase mortality (Peterson and Stone 2000, pp. 692–698). Variation in body size among populations of Sonora mud turtles appears to be related to water permanence, and body size was significantly larger in permanent habitats compared to intermittent and ephemeral habitats (Stanila 2009, p. 31). In permanent water sites, growth and body size are positively correlated with aquatic invertebrate abundance at a site (Rosen and Lowe 1996, pp. 33, 35).

Reduced surface water and ground water reduce the survival and growth of vegetation in the riparian areas. Reductions in riparian habitat decrease subsurface moisture needed for nesting sites; drought refuge for hatchlings, juvenile, and adult turtles; and shelter from large flooding events for hatchlings, juveniles, and adults. It is likely that only adults will be the most resistant to severe droughts. Decreased riparian vegetation will lead to deterioration of the microclimate that provides soil moisture for nest sites and burrows.

Water permanence may also affect the diversity of aquatic invertebrate prey available for mud turtles, with ephemeral habitats having lower diversity than intermittent or perennial habitats (Stanila 2009, p. 38), in addition to the presence of nonnative aquatic species that compete for prey. When invertebrates are abundant, and competition is low, turtles grow rapidly and have sufficient lipid content to support reproduction. Turtle recruitment is likely driven in significant part by invertebrate prey available because nutritional stress on females may result in a reduction in annual survivorship (Rosen and Lowe 1996, p. 41). Competition from nonnatives could decrease the type and amount of aquatic invertebrate prey available to Sonoyta mud turtles (Fernandez and Rosen 1996, pp. 39–40) and lead to lower fitness of turtles. Because high average annual juvenile survivorship is required for populations of long-lived organisms to maintain population stability (Congdon *et al.* 1993, pp. 831–832; Congdon *et al.* 1994, pp. 405–406), nonnative predators that reduce recruitment in Sonoyta mud turtle populations likely cause population declines.

The current prognosis of climate change impacts on the Sonoran Desert includes fewer frost days; warmer temperatures; greater water demand by plants, animals, and people; and an increased frequency of extreme weather events (heat waves, droughts, and floods) (Weiss and Overpeck 2005, p. 2074; Archer and Predick 2008, p. 24). Any reductions in annual rainfall, coupled with the hotter temperatures that are projected with very high confidence (and that will alone bring reductions in aquifer inputs due to higher evaporation rates), would have negative effects on aquifers across the Southwest. Virtually any plausible future climate scenario projects longer dry spells between rains, which can have more severe impacts on the landscape, especially in spring and summer (Lenart 2008, entire).

Current Condition

Currently, five known populations of Sonoyta mud turtle remain. The perennial water supporting four of the five turtle extant populations has been reduced, and all five populations are isolated from one another. For the sole population in the United States, discharge from Quitobaquito Springs has diminished by 42 percent over the past 35 years, with 5,500 cubic feet (cf)/day average discharge measured in the period 1981–1992, down to 3,157 cf/day measured from 2005–present (Carruth 1996, pp. 13, 21; Holm 2016, pers. comm.). Thus far, declining spring flow has been associated with less than 30 centimeters (cm) (12 inches (in)) of surface water level decline at the pond,

the depth of which ranges from 81 to 94 cm (32 to 37 in). This could indicate that current lower water levels of the pond are also caused by leakage or evapotranspiration, not just reduced spring flow. Excluding young-of-the-year (< 40 mm (1.6 in) carapace length), population estimates since 1984 ranged from a low of 39 turtles in 2005 to a high of 189 in 2013 with an average annual population estimate of 110 turtles. The population estimate for 2015 was 141 turtles.

In Mexico, the two populations in the Xochimilco and Papalote reaches of the Rio Sonoyta are isolated from one another even more than they used to be historically because the lengths of the perennial reaches have contracted. Added to this, a previously extant population in the Santa Domingo reach that was located between Xochimilco and Papalote reaches is no longer extant due to a complete lack of perennial water. The perennial waters in these three reaches have decreased by 80 to 92 percent from 19–27 km (11.8–16.8 mi) historically to approximately 1.5–5.5 km (0.9–3.4 mi) currently (table 1 and figure 3.1.1 of the SSA Report). Periodic movement between populations in the Rio Sonoyta basin may occur during prolonged periods of high rainfall, but the extent of immigration and emigration of turtles is unknown. However, it is thought to be rare to limited due to distances between populations coupled with limited hydrological connection.

Currently, the status of the Xochimilco population is unknown, but abundance is almost certainly far less, considering the reduced spatial and temporal extent of surface water. A total of 57 turtles have been marked in the Papalote reach in 2017, for a mark-recapture study that will provide better information on the status of the Sonoyta mud turtle in this reach in the next few years.

The population at the Sonoyta sewage lagoon adjacent to the Rio Sonoyta has the most reliable source of water at this time and may be the largest of the five populations based on water availability, but we have no current data on numbers of turtles at this site. If a new wastewater treatment plant is completed for the town of Sonoyta, the existing Sonoyta sewage lagoons will be drained and the new wastewater treatment plant will have 75 percent less habitat available for Sonoyta mud turtles. The fourth population in Mexico at Quitovac is outside of the Rio Sonoyta watershed, in the Rio Guadalupe basin, and has no present-day hydrological connection to the Rio Sonoyta. In addition, the Quitovac site was just recently completely dredged and the current status of Sonoyta mud turtles at that location is unknown.

Future Condition

The future resiliency of Sonoyta mud turtle populations depends on future water quantity, available riparian habitat, available invertebrate prey, and absence of certain nonnative aquatic species. In addition, if the new wastewater treatment plant becomes operational and replaces the Sonoyta sewage lagoons, this will be a reduction in water and riparian habitat for the Sonoyta mud turtle. Further, only a portion of the Sonoyta mud turtles are likely to be transplanted. Because there is uncertainty regarding how and when surface water loss and associated riparian habitat impairment may occur, as well as if and when various nonnative species may occur, we projected what the effects to the Sonoyta mud turtle may be in terms of population resiliency and species redundancy and representation under three plausible future scenarios over three meaningful time frames: 7 years, 35 years, and 70 years. We chose 7 years based on the area's drought cycle, 35 years because it incorporates both the maximum life span of the species and the mid-century climate projections for the southwestern United States, and 70 years because it is within the range of the available drought and climate change model forecasts and is about twice the maximum life span of the species (Lenart 2008, entire; Strittholt *et al.* 2012, entire; Garfin *et al.* 2013, entire).

Since surface water availability limits the other elements and the carrying capacity of the site, the ranking of the surface water was weighted higher than the other metrics. This means that if surface water was ranked moderate and all other elements were ranked high, the overall ranking would be moderate. We are presenting the moderate case scenarios, as we have determined that this is the most likely future scenario based on our understanding of the future conditions of climate change and groundwater pumping.

TABLE 2—SUMMARY OF SONOYTA MUD TURTLE POPULATION RESILIENCY UNDER SCENARIO 2—MODERATE CASE AT EACH TIME STEP COMPARED TO CURRENT CONDITION

Country	Population name	Current	Moderate case scenario		
		Condition	7-year	35-year	70-year
			time step	time step	time step
United States	Quitobaquito Springs	Moderate	Moderate	Moderate	Low
Mexico	Papalote Reach (Agua Dulce)	Moderate	Moderate	None	None
	Sonoyta Sewage Lagoon	Moderate	Low	None	None
	New Sonoyta wastewater treatment plant.	None	Moderate	Moderate	Moderate
	Xochimilco Reach (Sonoyta Reach)	Low	Low	None	None
	Quitovac	Low	Low	Low	Low
	Santo Domingo	None	None	None	None

Summary of Changes From the Proposed Rule

In preparing this final rule, we reviewed and fully considered comments we received from the public and peer reviewers on the SSA Report and proposed rule. We received numerous comments and new information from peer reviewers on the science and analysis in the SSA Report, and we have updated the SSA Report to incorporate these accordingly. In addition, we met with the National Park Service (NPS) to discuss the SSA Report, and we updated the SSA Report with the information NPS provided. This final rule incorporates minor changes to our proposed listing based on the comments we received, as discussed below in **Summary of Comments and Recommendations**. We

received multiple comments from peer reviewers that we underestimated some of the future risks to Sonoyta mud turtle populations. We have reevaluated the viability of the Sonoyta mud turtle in the SSA Report given this new information. These data allowed us to refine our risk assessment; thus, the final results are slightly different from those in the proposed rule. We found the probability of persistence lower than in the proposed rule. The new information we received in response to the proposed rule did not change our determination that the Sonoyta mud turtle is an endangered species, nor was it significant enough to warrant reopening the public comment period on the proposed rule.

Summary of Comments and Recommendations

In the proposed rule published on September 21, 2016 (81 FR 64829), we requested that all interested parties submit written comments on the proposal by November 21, 2016. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Arizona Daily Star. We did not receive any requests for a public hearing.

We reviewed all comments we received in response to the proposed rule for substantive issues and new information. We did not receive any comments from Federal agencies, States, or Tribes, and the public comments we received only stated a preference for listing or not listing the subspecies without including any substantive comments regarding the sufficiency of our analysis. All substantive information provided by peer reviewers during the comment period has either been incorporated directly into this final determination or is addressed below.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from eight knowledgeable individuals with scientific expertise that included familiarity with the Sonoyta mud turtle and its habitat, biological needs, and threats, or the nominate subspecies Sonora mud turtle. We received responses from six of the peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the listing of Sonoyta mud turtle. The peer reviewers generally concurred with our methods and conclusion, and provided additional and pertinent information, clarifications, and suggestions to improve the SSA Report and, therefore, the final rule. Peer reviewer comments are addressed in the following summary and incorporated into the SSA Report and this final rule as appropriate.

(1) *Comment:* One peer reviewer stated that the new wastewater treatment facility is not constructed, nor are there in-place plans to populate it, and there is currently no guarantee that whatever habitat is constructed will actually be suitable.

Our Response: We made revisions throughout the SSA Report to acknowledge the uncertainty related to future habitat for the Sonoyta mud turtle at the new wastewater treatment plant in the town of Sonoyta, Sonora, Mexico.

(2) *Comment:* One peer reviewer identified the importance of stipulating that the historical range and populations of the Sonoyta mud turtle are only those that are known or have been documented.

Our Response: We acknowledge that these are only the known populations of the Sonoyta mud turtle. While historically there could have been other populations, the best available commercial and scientific information does not indicate any other additional populations.

(3) *Comment:* One peer reviewer stated that he is not convinced that development of Sonoyta mud turtle embryos takes 80 days and is delayed after the eggs are laid, as stated in Ernst and Lovich (2009, p. 497).

Our Response: We acknowledge uncertainty regarding the timing of embryo development, or diapause, in the Sonoyta mud turtle. However, these specific steps in the reproductive process are also noted in van Lobel Sels *et al.* (1997, p. 497) and Stone *et al.* (2015, p. 735). The best available commercial and scientific information indicates that diapause likely occurs in this subspecies as it does in the nominate subspecies.

(4) *Comment:* One peer reviewer stated that we are assuming that Sonoyta mud turtles need riparian areas with moist soil.

Our Response: We acknowledge uncertainty around the terrestrial habitat needs of the Sonoyta mud turtle. However, we have high confidence that this subspecies uses areas with more shade and increased soil moisture to prevent desiccation of eggs in nest sites and turtles in estivation sites. Without suitable soil moisture, eggs will desiccate, and while the threshold is unknown, at some point the loss of soil moisture will impact egg survival. In the extremely arid environment where the Sonoyta mud turtle exists, riparian areas provide more shade and soil moisture than the surrounding uplands and, therefore, provide better habitat for nests.

(5) *Comment:* One peer reviewer stated that some nonnative aquatic species can be both predator and competitor to the Sonoyta mud turtle, and that not all nonnatives are harmful to the Sonoyta mud turtle.

Our Response: In the SSA Report, we clarified that only certain nonnative aquatic species are predators of the Sonoyta mud turtle, and we identify those that are a potential threat. We also clarified that only certain other nonnative aquatic species, as well as native fish species, may compete with Sonoyta mud turtles for invertebrate prey or disrupt the prey food chain. Further, we clarified the effects to the Sonoyta mud turtle from predation and competition from these specific nonnatives.

(6) *Comment:* Multiple peer reviewers thought that our viability projections for the Sonoyta mud turtle in chapter 5 of the SSA Report were overly optimistic based on uncertainty of the current status of populations in Mexico and because we underestimated the threats of introduction of nonnative aquatic species and climate change to the subspecies. Conversely, one peer reviewer thought we overestimated the threat of nonnatives persisting at Quitobaquito Springs because NPS would probably remove the threat.

Our Response: We agree that viability projections for the Sonoyta mud turtle were overly optimistic because of the high uncertainty of the number of turtles in the Mexico populations and that we underestimated some of the threats, such as long-term drought, nonnatives, and loss of connectivity, to the Sonoyta mud turtle. We modified the SSA Report accordingly. We also agree that the nonnatives at Quitobaquito Springs have been removed by NPS in the past; however, no mechanism ensures that changing resource priorities and funding constraints will not be an issue in the future. We have modified the SSA Report accordingly.

(7) *Comment:* Several peer reviewers noted that statements in the SSA Report that require citations to support them. For example, one peer reviewer believed that the statement ''prolonged and recurrent estivation will reduce fitness and increase mortality'' was entirely speculative. Similarly, another peer reviewer indicated the uncertainties acknowledged in the SSA Report reduce

its predictive value (*e.g.,* effects of transitioning to the new sewage treatment plant, likelihood of introduction of nonnative species, status of the turtle on Tohono O'odham Nation lands, long-term genetic viability, and continued ability of State and Federal agencies to manage for this species).

Our Response: We revised the SSA Report to add citations to support statements where needed throughout the document. We also recognize that the SSA Report contains uncertainties, and throughout the document we identify these uncertainties as well as quantify or clarify our level of uncertainty. However, because we are required by the Act (16 U.S.C. 1531 *et seq.*) to complete this determination based on the best available scientific and commercial information, we must move forward without resolving all potential uncertainties.

(8) *Comment:* One peer reviewer noted that the distribution map on page 4, figure 2.1.1., of the SSA Report is a bit out of date. Specifically, the Quitovac locality is not shown, and there are now many more localities in northeastern Sonora (see the Madrean Archipelago Biodiversity Assessment and Madrean Discovery Expeditions databases).

Our Response: Figure 2.1.1. in the SSA Report is used to demonstrate the general distribution of the two mud turtle subspecies, Sonora and Sonoyta, in relation to each other, not to delineate the current range or distribution of either subspecies.

Public Comments

We received only comments stating a preference for listing or not listing the subspecies. We did not receive any substantive comments regarding the sufficiency of the analysis.

Determination

Standard for Review

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

The fundamental question before the Service is whether the species meets the definition of ''endangered species'' or ''threatened species'' under the Act. To make this determination, we evaluated the projections of extinction risk, described in terms of the condition of current and future populations and their distribution (taking into account the risk factors and their effects on those populations). For any species, as population condition declines and distribution shrinks, the species' extinction risk increases and overall viability declines.

Sonoyta Mud Turtle Determination of Status Throughout All of Its Range

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Sonoyta mud turtle. Currently, the five extant populations are all significantly isolated from one another such that recolonization of areas previously extirpated or areas that may be extirpated is extremely unlikely. Expert input provided during the development of the SSA Report indicated that connectivity or movement among the populations is a rare or nonexistent occurrence. The species' range has been reduced by 80 to 92 percent in the Rio Sonoyta (Factor A) in Mexico, and current distribution is limited to five populations in three ponds totaling less than 7 ha (less than 17.5 ac) and two perennial sections of the Rio Sonoyta totaling 1.5 to 5.5 km (0.9 to 3.4 mi). Two historical populations are extirpated due to loss of perennial water. There are two newly discovered extant populations in addition to the three historical populations that remain. One is within a wastewater treatment plant where the impacts from facility management and water quality make monitoring difficult and may be adverse to Sonoyta mud turtle viability, and the other is outside the Rio Sonoyta basin, which is likely outside the historical range of the species. None of the five populations are classified as having ''high'' resiliency, described in the SSA Report as ''all or the majority of turtles are able to complete their life functions and breeding is successful to maintain a stable or increasing population, and able to withstand stochastic events or recover from stochastic events from connected populations.'' Even with a resiliency classified as ''moderate'' in three populations, we expect stable or decreasing populations that are not able to recover from stochastic events. The remaining two populations have few turtles able to complete life functions, a decreasing population, and inability to withstand or recover from stochastic events. All five of these populations are currently facing stressors and are susceptible to current and ongoing impacts.

Habitat loss from anthropogenic ground water withdrawals and long-term drought is occurring rangewide and is likely to continue and increase in the near term (Factors A and E). This reduction in water restricts the limited available habitat and decreases the resiliency of Sonoyta mud turtle populations within those habitats. We find that ongoing cyclical drought is likely to continue and be exacerbated by climate change, further decreasing water availability and increasing evapotranspiration losses (Factors A and E). This threat is ongoing, rangewide, and expected to increase in the future. Predation by nonnative aquatic species has occurred at two sites in Mexico, although there is uncertainty with regard to the population effects (Factor C). Predation by nonnative aquatic species reduces recruitment and population size of populations of Sonora mud turtle, and it is likely to continue to affect Sonoyta mud turtle populations in the future. The Quitovac population's current habitat was just recently completely dredged (Factor A), and the current status of Sonoyta mud turtles at that location is unknown. Partial dredging in the near term is likely to occur based on past dredging activity. It is reasonably likely that a catastrophic event could occur imminently at one or more of the population sites, and current population resiliency and redundancy are inadequate to maintain population viability.

The implementation of the conservation measures by NPS and the Quitobaquito Rio Sonoyta Working Group has resulted in maintaining the only Sonoyta mud turtle population in the United States and reduces the risk of loss of at least one population in Mexico. However, the conservation measures do not alleviate the threats that are influencing the resiliency, redundancy, and representation of the Sonoyta mud turtle across its range (as described above).

The Act defines a ''species'' as including any ''subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' The Act defines an ''endangered species'' as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a ''threatened species'' as

any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' Based on the information presented in the SSA Report for the Sonoyta mud turtle, and the discussion above, we find that the best available scientific and commercial information indicates that the Sonoyta mud turtle is presently in danger of extinction throughout its entire range based on the severity and immediacy of threats currently impacting the subspecies. The overall range has been significantly reduced; the limited remaining habitat and populations are currently threatened by an increase in ground water pumping, which results in reduced spring flows and, therefore, reduced surface water. Discharge from Quitobaquito Springs has diminished by 42 percent over the past 35 years, and the pond depth has been declining since the early 1990s due to evapotranspiration, leakage, and the reduction in spring water discharge. The perennial waters in the three historical reaches of the Rio Sonoyta have decreased by 80 to 92 percent. Current distribution is limited to five populations in three ponds totaling less than 7 ha (less than 17.5 ac) and two perennial sections of the Rio Sonoyta totaling 1.5 to 5.5 km (0.9 to 3.4 mi). The new wastewater treatment plant, if utilized, will provide 75 percent less habitat available for Sonoyta mud turtles than the current sewage lagoon. Reduced surface water results in reduced aquatic habitat where the subspecies spends the majority of its time and that is needed to avoid desiccation of all life stages. Further, the reduction in surface water impacts aquatic vegetation used by the Sonoyta mud turtle for cover and by its prey species. Lastly, the reduction in ground water reduces the soil moisture of the riparian area, resulting in habitat that is too dry for Sonoyta mud turtles to use for estivation and nesting.

These factors, acting in combination, reduce the overall viability of the subspecies. Each of the five remaining populations are exposed to threats that may eliminate them individually at any time. The risk of extinction for this subspecies is currently high because the five remaining populations are small, isolated, and have limited (if any) potential for recolonization. Each population's isolation from other populations means that once a population is extirpated, it is likely to remain extirpated. The estimated current conditions of the known Sonoyta mud turtle populations as described in the SSA Report lead us to find that the condition and distribution of populations do not provide sufficient resiliency, redundancy, and representation for this subspecies at this time; therefore, we find that the subspecies meets the definition of an endangered species under the Act. Accordingly, on the basis of the best available scientific and commercial information, we are listing the Sonoyta mud turtle as endangered in accordance with sections 3(6) and 4(a)(1) of the Act.

We find that a threatened status is not appropriate for the Sonoyta mud turtle because the danger of extinction for this subspecies exists now. The current restricted range and ubiquitous and imminent threats occur rangewide. Consequently, we find the Sonoyta mud turtle to be in danger of extinction now throughout its range.

Determination of Status Throughout a Significant Portion of Its Range

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.'' The phrase ''significant portion of its range'' is not defined by the Act, and a district court has held that aspects of the Service's Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species and ''Threatened Species'' (79 FR 37577 (July 1, 2014)) (SPR Policy) were not valid. *Center for Biological Diversity* v. *Jewell,* No. 14–cv–02506–RM (D. Ariz. Mar. 29, 2017) (Pygmy-Owl Decision).

Although the court's order in that case has not yet gone into effect, if the court denies the pending motion for reconsideration, the SPR Policy would become vacated. Therefore, we have examined the plain language of the Act and court decisions addressing the Service's application of the SPR phrase in various listing decisions, and for purposes of this rulemaking we are applying the interpretation set out below for the phrase ''significant portion of its range'' and its context in determining whether or not a species is an endangered species or a threatened species. Because the interpretation we are applying is consistent with the SPR Policy, we summarize herein the bases for our interpretation, and also refer the public to the SPR Policy itself for a more-detailed explanation of our reasons for interpreting the phrase in this way.

An important factor that influences the question of whether an SPR analysis is necessary here is what the consequence would be if the Service were to find that the Sonoyta mud turtle is in danger of extinction or likely to become so throughout a significant portion of its range. Two district court decisions have evaluated whether the outcomes of the Service's SPR determinations were reasonable. As described in the SPR Policy, both courts found that, once the Service determines that a ''species''—which can include a species, subspecies, or DPS under ESA Section 3(16)—meets the definition of ''endangered species'' or ''threatened species,'' the species must be listed in its entirety and the Act's protections applied consistently to all members of that species (subject to modification of protections through special rules under sections 4(d) and 10(j) of the Act). See *Defenders of Wildlife* v. *Salazar,* 729 F. Supp. 2d 1207, 1222 (D. Mont. 2010) (delisting of the Northern Rocky Mountains DPS of gray wolf; appeal dismissed as moot because of public law vacating the listing, 2012 U.S. App. LEXIS 26769 (9th Cir. Nov. 7, 2012)); *WildEarth Guardians* v. *Salazar,* No. 09–00574–PHX–FJM, 2010 U.S. Dist. LEXIS 105253, 15–16 (D. Ariz. Sept. 30, 2010) (Gunnison's prairie dog). The issue has not been addressed by a Federal Court of Appeals.

Consistent with the district court case law, we interpret that the consequence of finding that the Sonoyta mud turtle is in danger of extinction or likely to become so throughout a significant portion of its range would be that the entire species would be listed as an endangered species or threatened species, respectively, and the Act's protections would be applied to all individuals of the species wherever found. Thus, the ''throughout all'' phrase and the SPR phrase provide two independent bases for listing. We note that in the Act Congress placed the ''all'' language before the SPR phrase in the definitions of ''endangered species'' and ''threatened species.'' This suggests that Congress intended that an analysis based on consideration of the entire range should receive primary focus. Thus, the first step we undertook, above, in our assessment of the status of the species was to determine its status throughout all of its range. Having determined that the species is in danger of extinction throughout all of its range, we now examine whether it is necessary to determine its status throughout a significant portion of its range.

We conclude that in this situation we do not need to conduct an SPR analysis. This conclusion is consistent with the Act because the species is currently in danger of extinction throughout all of its

range due either to high-magnitude threats across its range, or to threats that are so high in particular areas that they severely affect the species across its range. Therefore, the species is in danger of extinction throughout every portion of its range, and an analysis of whether the species is in danger of extinction or likely to become so throughout any significant portion of its range would be redundant and unnecessary. We accordingly conclude that we do not need to conduct further analysis of whether the Sonoyta mud turtle is in danger of extinction or likely to become so in the foreseeable future throughout a significant portion of its range.

Therefore, on the basis of the best available scientific and commercial information, we are adding Sonoyta mud turtle to the List of Endangered and Threatened Wildlife as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act. We find that a threatened species status is not appropriate for Sonoyta mud turtle because of the immediacy of threats facing the species with only five known populations, at least one of which is declining in abundance.

Critical Habitat Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist:

(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or

(2) Such designation of critical habitat would not be beneficial to the species. In determining whether a designation would not be beneficial, the factors the Service may consider include but are not limited to: Whether the present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or whether any areas meet the definition of ''critical habitat.''

Prudency of Critical Habitat

There is currently no imminent threat of take attributed to collection or vandalism identified under Factor B for this subspecies, and identification and mapping of critical habitat is not expected to initiate any such threat. In the absence of finding that the designation of critical habitat would increase threats to a species, we next determine whether such designation of critical habitat would not be beneficial to the species. In our proposed listing rule, we determined that there are habitat-based threats to the Sonoyta mud turtle identified under Factor A. Therefore, we find that the designation of critical habitat would be beneficial to Sonoyta mud turtle through the provisions of section 7 of the Act. Because we have determined that the designation of critical habitat will not likely increase the degree of threat to the subspecies and would be beneficial, we find that designation of critical habitat is prudent for the Sonoyta mud turtle.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act, we must find whether critical habitat for the Sonoyta mud turtle is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Information sufficient to perform required analysis of the impacts of the designation is lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of ''critical habitat.''

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. A careful assessment of the economic impacts that may occur due to a critical habitat designation is still ongoing, and we are in the process of working with Customs and Border Protection and the National Park Service in acquiring the necessary information needed to perform that assessment. The information sufficient to perform a required analysis of the impacts of the designation is lacking. Accordingly, we find that critical habitat for this subspecies, in accordance with section 4(a)(3)(A) of the Act, to be not determinable at this time. When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are

often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*) or from our Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Arizona will be eligible for Federal funds to implement management actions that promote the protection or recovery of the Sonoyta mud turtle. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the Sonoyta mud turtle. Additionally, we invite you to submit any new information on this subspecies whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the subspecies' habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by NPS (Organ Pipe Cactus National Monument) and U.S. Customs and Border Protection.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) endangered wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22. With regard to endangered wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are set forth at sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. At this time, we are unable to identify specific activities that would not be considered to result in a violation of section 9 of the Act because the Sonoyta mud turtle sites where the species currently occurs are subject to a variety of potential activities, and it is likely that site-specific conservation measures may be needed for activities that may directly or indirectly affect the species. Based on the best available information, the following actions are likely to result in a violation of section 9; this list is not comprehensive:

(1) Unauthorized handling or collecting of the Sonoyta mud turtle.

(2) Destruction/alteration of Sonoyta mud turtle habitat by discharge of fill material, draining, ditching, tiling, pond construction, stream channelization or diversion, removal or destruction of emergent aquatic vegetation; or diversion or alteration of surface or ground water flow into or out of the wetland (*i.e.,* due to roads, impoundments, discharge pipes, storm water detention basins, etc.) or in any body of water in which the Sonoyta mud turtle is known to occur.

(3) Direct or indirect destruction of riparian habitat.

(4) Introduction of nonnative species that compete with or prey upon the Sonoyta mud turtle, such as the introduction of nonnative fish and crayfish species.

(5) Release of biological control agents that attack any life stage of this subspecies.

(6) Discharge of chemicals or fill material into any waters in which the Sonoyta mud turtle is known to occur.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal

Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

Based on cultural claims maps and reservation boundaries we have on file, the distribution of the Sonoyta mud turtle overlaps areas that may be of interest to the following tribes: Tohono O'odham Nation, Quechan Tribe, Hopi Tribe, Colorado River Indian Tribes, and Cocopah Indian Tribe. On November 20, 2015, we notified these tribes via letter of our intent to conduct a status assessment for the purpose of determining whether the subspecies warrants protection under the Act. In our letter, we offered to meet with the tribe to discuss the process, potential impacts to the tribes, and how tribal information may be used in our assessment. In addition, we requested any information they have regarding the subspecies. On August 17, 2016, we invited comments from the five tribes, and on September 19, 2016, we submitted notification to tribal leaders of the proposed listing publication. To date, we have not received a response from these any of these tribes. Upon publication of this final rule, we will send notification letters to these tribes and again extend an invitation to meet and discuss.

References Cited

A complete list of references cited in this rulemaking is available in the SSA Report (U.S. Fish and Wildlife Service 2017. Species status assessment report for the Sonoyta mud turtle (*Kinosternon sonoriense longifemorale*), Version 2.0. Albuquerque, NM) that is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R2–ES–2016–0103, at *https://www.fws.gov/southwest/es/arizona/,* and upon request from the Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Arizona Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. In § 17.11(h), add an entry for ''Turtle, Sonoyta mud'' to the List of Endangered and Threatened Wildlife in alphabetical order under REPTILES to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
REPTILES				
*	*	*	*	*
Turtle, Sonoyta mud	*Kinosternon sonoriense longifemorale*	Wherever found	E	82 FR [insert **Federal Register** page where the document begins], 9/20/2017.
*	*	*	*	*

* * * * *

Dated: September 7, 2017.

James W. Kurth,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–20072 Filed 9–19–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 170404354–7873–01]

RIN 0648–BG79

Pacific Island Pelagic Fisheries; Exemption for Large U.S. Longline Vessels To Fish in Portions of the American Samoa Large Vessel Prohibited Area; Court Order

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

ACTION: Final rule.

SUMMARY: In this final rule, NMFS removes a regulatory exemption that allowed certain large U.S. longline vessels to fish in portions of the American Samoa Large Vessel Prohibited Area (LVPA). The intent is to comply with a U.S. District Court Final Judgment and Order that vacated and set aside that rule.

DATES: Effective September 20, 2017.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS PIRO Sustainable Fisheries, 808–725–5170.

SUPPLEMENTARY INFORMATION: NMFS and the Western Pacific Fishery Management Council (Council) manage pelagic fisheries in the U.S. Pacific Islands under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region, formerly the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP). In 2002, in response to a recommendation from the Council, NMFS implemented a measure under the FMP that prohibited certain vessels from fishing for Pacific pelagic management unit species in Federal waters from 3 nm to approximately 30–50 nm around the islands of American Samoa (the Large Vessel Prohibited Area, LVPA). The area prohibition applied to vessels more than 50 ft in length overall that had not landed pelagic management unit species in American Samoa under a Federal longline general permit prior to November 13, 1997. The LVPA was intended to prevent the potential for gear conflicts and catch competition between large and small vessels. At the time, the Council and NMFS felt that such conflicts and competition could have led to reduced opportunities for sustained participation by residents of American Samoa in the small-scale pelagic fishery. You may read more about the establishment of the LVPA in the 2001 proposed rule (66 FR 39475, July 31, 2001) and 2002 final rule (67 FR 4369, January 30, 2002).

Since 2002, however, the American Samoa longline fishery has been experiencing declining catch rates of albacore, lower fish prices, and increased fuel and operating costs. In the period 2001–2009, longline incomes had decreased by 96 percent, with average revenues only half of what was necessary for profitable operations. Concerned that the LVPA might be unnecessarily reducing the efficiency of the larger American Samoa longline vessels by displacing the fleet from a part of their historical fishing grounds, in early 2014 the Council began exploring ways to assist the longline fishery, while ensuring conservation of affected stocks and minimizing impacts to other fisheries. To address current fishery conditions, the Council recommended in 2015 that NMFS provide a limited exemption from the LVPA based on vessel size, and allow federally permitted U.S. longline vessels 50 ft and longer to fish in portions of the LVPA.

Accordingly, in 2016, NMFS published a final rule that allowed large federally permitted U.S. longline vessels to fish in specific areas of the LVPA. That action allowed large U.S. vessels that hold a Federal American Samoa longline limited entry permit to fish within the LVPA to within about 12–17 nm from shore around Swains Island, Tutuila, and the Manua Islands. Large vessels continued to be restricted from fishing within the remaining portions of the LVPA. The intent of the rule was to improve the viability of the American Samoa longline fishery and achieve optimum yield, while preventing overfishing in accordance with National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). You may read more about the large vessel exemptions to the LVPA in the 2015 proposed rule (80 FR 51527, August 25, 2015) and 2016 final rule (81 FR 5619, February 3, 2016).

In July 2016, the Territory of American Samoa sued NMFS and the Council in the U.S. District Court for the District of Hawaii (*Territory of American Samoa* v. *NMFS, et al. (D. HI) Civil 16–00095*), seeking to set aside the 2016 final rule. The Territory claimed that NMFS did not consider, as other applicable law, the 1900 and 1904 Deeds of Cession with respect to the protection of the cultural fishing rights of the people of American Samoa.

On March 20, 2017, the U.S. District Court for the District of Hawaii held that, because NMFS did not consider whether the 2016 rule was consistent with the Deeds of Cession, the final rule was invalid. The Court issued an Order for NMFS to vacate and set aside the LVPA exemption rule. On August 10, 2017, the U.S. District Court denied Defendants' Motion for Reconsideration of this Judgment. Pursuant to the Final Judgment, this final rule removes the LVPA exemptions based on vessel size found at Title 50, Code of Federal Regulations, Section 665.818, paragraph (b). All other provisions applicable to the American Samoa longline fishery remain unchanged.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this final rule is consistent with the Court's Final Judgment, the Magnuson-Stevens Act, and other applicable laws.

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

The Assistant Administrator for Fisheries, NOAA, finds good cause to waive notice and public comment on this action because it would be unnecessary and contrary to the public interest, as provided by 5 U.S.C. 553(b)(B). This action is limited in scope and ensures that the regulatory text provides accurate information to the regulated public that is consistent with a Federal Court Order. NMFS does not have discretion to take other action, as there is no alternative to complying with the requirements of the Court Order.

Furthermore, the Assistant Administrator for Fisheries finds good cause to waive the 30-day delayed effectiveness period, as provided by 5 U.S.C. 553(d)(3), finding that such delay would be contrary to the public interest because the measures contained in this rule are necessary to ensure that the fishery is conducted in compliance with a Federal Court Order. On March 27, 2017, NMFS notified longline permit holders of the Court Order, that the exemption available to large longline vessels no longer applies, and that they may not fish within the boundaries of the LVPA.

Because this rulemaking is required by Court Order, and prior notice and opportunity for public comment are not required under 5 U.S.C. 553, or any other law, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 603–605, do not apply to this rule. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

In addition, because the changes required by the Court Order that are identified in this rule are non-

discretionary, the National Environmental Policy Act does not apply to this rule.

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 14, 2017.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS amends 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for 50 CFR part 665 continues to read as follows:

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

§ 665.818 [Amended]

■ 2. In § 665.818, remove and reserve paragraph (b).

[FR Doc. 2017–19982 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 181
Wednesday, September 20, 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 THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 25 and 195

[Docket ID OCC–2017–0008]

RIN 1557–AE15

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Docket No. R–1574]

RIN 7100–AE84

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AE58

Community Reinvestment Act Regulations

AGENCY: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; and Federal Deposit Insurance Corporation.

ACTION: Joint notice of proposed rulemaking; request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the Agencies) propose to amend their regulations implementing the Community Reinvestment Act (CRA) to update the existing definitions of ''home mortgage loan'' and ''consumer loan,'' related cross references, and the public file content requirements to conform recent revisions made by the Consumer Financial Protection Bureau (Bureau) to Regulation C, which implements the Home Mortgage Disclosure Act (HMDA), and to remove obsolete references to the Neighborhood Stabilization Program (NSP).

DATES: Comments must be received on or before October 20, 2017.

ADDRESSES: Comments should be directed to:

OCC: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Community Reinvestment Act Regulations'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

Federal eRulemaking Portal— ''*Regulations.gov*'': Go to *www.regulations.gov.* Enter ''Docket ID OCC–2017–0008'' in the Search box and click ''Search.'' Click on ''Comment Now'' to submit public comments.

• Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.

• *Email: regs.comments@occ.treas.gov.*

• *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Washington, DC 20219.

• *Hand Delivery/Courier:* 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

• *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2017–0008'' in your comment. In general, OCC will enter all comments received into the docket and publish them on the *Regulations.gov* Web site without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

• *Viewing Comments Electronically:* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2017–0008'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen.

• Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*. The docket may be viewed after the close of the comment period in the same manner as during the comment period.

• *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Board: When submitting comments, please consider submitting your comments by email or fax because paper mail in the Washington, DC area and at the Board may be subject to delay. You may submit comments, identified by Docket No. R–XXXX and RIN XXXX–XXXX, by any of the following methods:

• *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Email: regs.comments@federalreserve.gov.* Include docket and RIN numbers in the subject line of the message.

• *Fax:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

Instructions: All public comments will be made available on the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments

may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW. (between 18th and 19th Streets, NW.), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

FDIC: You may submit comments, identified by RIN 3064–AE62, by any of the following methods:

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on the Agency Web site.
- *Email: Comments@fdic.gov.* Include the RIN 3064–AE62 on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Instructions: All comments received must include the agency name and RIN 3064–AE62 for this rulemaking. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html,* including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226 by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT:

OCC: Emily R. Boyes, Attorney, Community and Consumer Law Division, (202) 649–6350; Allison Hester-Haddad, Counsel, Legislative and Regulatory Activities Division, (202) 649–5490; for persons who are deaf or hard of hearing, TTY, (202) 649–5597; or Vonda J. Eanes, Director for CRA and Fair Lending Policy, Compliance Risk Policy Division, (202) 649–6907, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Amal S. Patel, Senior Supervisory Consumer Financial Services Analyst, Division of Consumer and Community Affairs, (202) 912–7879; Cathy Gates, Senior Project Manager, Division of Consumer and Community Affairs, (202) 452–2099, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

FDIC: Patience R. Singleton, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898–6859; Sharon B. Vejvoda, Senior Examination Specialist, Examination Branch, Division of Depositor and Consumer Protection, (202) 898–3881; Richard M. Schwartz, Counsel, Legal Division (202) 898–7424; or Sherry Ann Betancourt, Counsel, Legal Division (202) 898–6560, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background

The Board, the FDIC, and the OCC implement the CRA (12 U.S.C. 2901 *et seq.*) through their CRA regulations. *See* 12 CFR parts 25, 195, 228, and 345. The CRA is designed to encourage regulated financial institutions to help meet the credit needs of the local communities in which an institution is chartered. The CRA regulations establish the framework and criteria by which the Agencies assess a financial institution's record of helping to meet the credit needs of its community, including low- and moderate-income neighborhoods, consistent with safe and sound operations. Under the CRA regulations, the Agencies apply different evaluation standards for financial institutions of different asset sizes and types.

The Agencies also publish the Interagency Questions and Answers Regarding Community Reinvestment (Questions and Answers) [1] to provide guidance on the interpretation and application of the CRA regulations to agency personnel, financial institutions, and the public.

Introduction

The Agencies jointly propose to amend their regulations implementing the CRA (12 U.S.C. 2901 *et seq.*). This proposed rulemaking amends the current definitions of ''home mortgage loan'' and ''consumer loan'' and the public file content requirements to conform to recent revisions made by the Bureau to its Regulation C, which implements HMDA, makes technical amendments to remove unnecessary cross references as a result of the amended definitions, and removes an obsolete reference to the NSP.

[1] ''Questions and Answers'' refers to the ''Interagency Questions and Answers Regarding Community Reinvestment'' in its entirety; ''Q&A'' refers to an individual question and answer within the Questions and Answers.

Amendments To Conform the CRA Regulations to Recent Revisions to the Bureau's Regulation C

Conforming Changes to the ''Home Mortgage Loan'' Definition

The CRA regulations specify the type of lending and other activities that the Agencies evaluate to assess a financial institution's CRA performance. In 1995, the Agencies substantively amended their CRA regulations to clarify the methods that examiners use to assess financial institutions' CRA performance (1995 CRA Rule).[2] These amended regulations added the definition of ''home mortgage loan,'' to describe a category of loans that examiners evaluate when assessing a financial institution's performance under the retail lending test. As part of efforts to produce a less-burdensome CRA assessment process, the Agencies relied on the scope of loans reported under the Board's Regulation C, which implemented HMDA at the time, to define ''home mortgage loan.'' (12 CFR part 203 (1995)).[3] The Board's Regulation C required a HMDA reporter to report data to its supervisory agency on originations, purchases, and applications for loans that were made for one of two purposes: Home purchase or home improvement. (*See* 12 CFR 203.1(c) (1995)). As a result, the 1995 CRA Rule defined ''home mortgage loan'' to mean ''home purchase loan'' or ''home improvement loan,'' as those terms were defined in the Board's Regulation C in 12 CFR 203.2.

On February 15, 2002, the Board made substantial revisions to its Regulation C (2002 HMDA Rule), including, among other things, changing the scope of loans reported under Regulation C to include all refinancings,

[2] 60 FR 22156 (May 4, 1995). The CRA regulations were also issued by the Office of Thrift Supervision (OTS). In 2010, the OTS was integrated with the OCC pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (15 U.S.C. 5413), and the regulation of thrifts was transferred to the OCC, the Board, and the FDIC (15 U.S.C. 5412).

[3] The Agencies originally proposed that the definition of ''home mortgage loan'' include all mortgage loans reportable under both the HMDA statute and its implementing regulations (*see* 58 FR 67466, at 67473, Dec. 21, 1993). However, some commenters noted that the Board had already refined the definition of home mortgage loan in its HMDA regulations (12 CFR part 203). These commenters indicated it would be preferable and, perhaps, less confusing if the Agencies only referred to the Board's HMDA regulations, rather than both the HMDA statute and the regulation. As a result of these comments, the Agencies amended the proposed definition in the 1995 CRA Rule and defined ''home mortgage loan'' as a ''home improvement loan'' or a ''home purchase loan,'' as those terms were defined in 12 CFR 203.2 of the Board's Regulation C.

regardless of purpose.[4] Prior to this amendment, lenders were able to select from among four scenarios to decide which refinancings to report. The 2002 HMDA Rule revised Regulation C to define and include ''refinancings'' in the scope of loans that were reportable under HMDA and Regulation C. 12 CFR 203.1(c) (2004). As a result of this change, any closed-end home purchase or refinancing was reported if it was dwelling-secured and home improvement loans were reported whether or not they were dwelling-secured. To keep the CRA regulations aligned with the scope of loans reportable under HMDA and Regulation C, on March 28, 2005, the Agencies issued a final rule to change the definition of ''home mortgage loan'' in their CRA regulations to mean not only a ''home improvement loan'' or a ''home purchase loan,'' but also a ''refinancing'' as that term was defined in 12 CFR 203.2 of the Board's Regulation C.[5]

On July 21, 2011, rulemaking authority for HMDA transferred from the Board to the Bureau pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[6] On October 15, 2015, the Bureau issued a final rule substantially revising Regulation C (12 CFR 1003), in part, to implement amendments to HMDA required by section 1094 of the Dodd-Frank Act (2015 HMDA Rule).[7] The 2015 HMDA Rule, which in relevant part has a January 1, 2018, effective date, revises the scope of transactions reportable under Regulation C.[8] In some cases, the revised scope of loans reportable under HMDA is broader, and in other cases, it is more limited.[9] For consumer-purpose transactions, the 2015 HMDA Rule changes the traditional purpose-based reporting approach [10] to a dwelling-secured standard for all closed-end loans and open-end lines of credit that are for personal, family, or household purposes (*i.e.,* consumer purpose).[11] As a result, most consumer-purpose transactions, including closed-end mortgage loans, closed-end home equity loans, home-equity lines of credit, and reverse mortgages, will be reportable under HMDA if they are secured by a dwelling.[12] Home improvement loans that are not secured by a dwelling (*i.e.,* home improvement loans that are unsecured or that are secured by some other type of collateral), however, will now be excluded from Regulation C coverage.[13]

The 2015 HMDA Rule retains the traditional purpose-based reporting approach for all commercial-purpose transactions. Thus, if a dwelling-secured, commercial loan has the purpose of home purchase, home improvement, or refinancing, the loan will be subject to Regulation C.[14] Commercial-purpose loans or lines of credit that are not for home purchase, home improvement, or refinancing will continue to be excluded from the regulation's coverage under the 2015 HMDA Rule, as are all primarily agricultural-purpose transactions.[15]

Effective January 1, 2018, Regulation C will require covered financial institutions to report applications for, and originations and purchases of, ''covered loans'' that are secured by a dwelling. A ''covered loan'' is defined in 12 CFR 1003.2(e) to mean a closed-end mortgage loan, as defined in § 1003.2(d), or an open-end line of credit, as defined in § 1003.2(o), that is not an excluded transaction under 12 CFR 1003.3(c).[16] To conform to the new

[4] 67 FR 7222 (Feb. 15, 2002). The 2002 HMDA Rule revisions became effective on January 1, 2004.

[5] 70 FR 15570 (Mar. 28, 2005).

[6] Public Law 111–203, 124 Stat. 1376 (2010), codified in relevant part at 12 U.S.C. 5301, 5481–5603, and in laws amended (Title X); and 12 U.S.C. 5481 note, 15 U.S.C. 1601 note, 1602, and 1631 *et seq.* (Title XIV). The Bureau's Regulation C is located at 12 CFR part 1003.

[7] 80 FR 66127 (Oct. 28, 2015). On August 24, 2017, the Bureau issued a final rule (2017 HMDA Rule) amending the 2015 HMDA Rule. The 2017 HMDA Rule finalizes a proposal issued by the Bureau on April 25, 2017 (82 FR 19142), to address technical errors, ease the burden on certain reporting requirements, and clarify some key terms. The 2017 HMDA Rule also finalizes a proposal issued by the Bureau on July 14, 2017 (82 FR 33455), to temporarily increase the institutional and transactional coverage thresholds for open-end lines of credit. *See http://files.consumerfinance.gov/f/documents/201708_cfpb_final-rule_home-mortgage-disclosure_regulation-c.pdf*

[8] 80 FR at 66128.

[9] The 2015 HMDA Rule revises the scope of transactions as well as financial institutions that must collect and report HMDA data. Under the revised rule, a financial institution that meets all other requirements for financial institution coverage is required to report HMDA data only if it originates at least 25 closed-end mortgage loans or at least 100 open-end lines of credit in each of the two preceding calendar years. The open-end lines of credit threshold will increase from 100 to 500 loans on a temporary basis for a period of two years (calendar years 2018 and 2019) pursuant to the 2017 HMDA Rule. The Bureau is not making the threshold increase for open-end lines of credit permanent at this time. Absent further action by the Bureau, effective January 1, 2020, the open-end threshold will be restored to the 2015 HMDA Rule level of 100 open-end lines of credit, and creditors originating between 100 and 499 open-end lines of credit will need to begin collecting and reporting HMDA data for open-end lines of credit at this time. While depository financial institutions with more than 100 open-end lines of credit (500 open-end lines of credit for 2018 and 2019) will have to report HMDA data, fewer depository financial institutions will report closed-end mortgage data under HMDA when the revised rule becomes effective.

[10] Under current Regulation C, loans that are made primarily for personal, family or household purposes (*i.e.,* consumer purpose) and that are secured by a dwelling are reportable if they are made for the purpose of home-purchase or refinancing. Loans that are made for the purpose of home improvement are reported regardless of whether they are secured by a dwelling. The 2015 HMDA Rule modifies the types of transactions that are subject to Regulation C by changing this traditional ''purpose-based'' reporting approach to generally adopting a dwelling secured standard for transactional coverage.

[11] 80 FR at 66128.

[12] *Id.*

[13] *Id.*

[14] *Id.* Under the 2015 HMDA Rule, dwelling-secured commercial-purpose transactions will be covered only if they are for home purchase, home improvement, or refinancing purposes. A closed-end mortgage loan or an open-end line of credit to purchase or to improve a multifamily dwelling or a single-family investment property, or a refinancing of a closed-end mortgage loan or an open-end line of credit secured by a multifamily dwelling or a single-family investment property, would be a reportable transaction under the 2015 HMDA Rule. *See* Comment 3(c)(10)—3.i. A closed-end mortgage loan or an open-end line of credit whose funds will be used primarily to improve or expand a business, for example, to renovate a family restaurant that is not located in a dwelling or to purchase a warehouse, business equipment, or inventory, would not be a reportable transaction. *See* Comment 3(c)(10)—4.i.

[15] *Id.* Note that under current Regulation C, a loan to purchase property used primarily for agricultural purposes, is not a home purchase loan. However, under certain circumstances a refinance with a primarily agricultural purpose could be reported as a refinancing on the HMDA Loan Application Register (LAR). For purposes of CRA, this loan could be captured as both a ''refinancing'' under the CRA definition of ''home mortgage loan'' and, because the refinancing would be for an agricultural loan, the loan would also be captured on the Call Report as a refinance of a small farm loan. Under the 2015 HMDA Rule, all loans with a primarily agricultural purpose, whether they are for home purchase, home improvement, refinancing, or another purpose, will no longer be reported on the HMDA LAR. As a result, for purposes of CRA, the likelihood of double counting primarily agricultural purpose loans as both a ''refinancing'' under the definition of ''home mortgage loan'' and a refinancing of small farm loans is decreased. The Agencies do not believe the proposed change in transactional coverage for commercial loans and loans with a primarily agricultural purpose will negatively impact a financial institution's CRA rating.

[16] The 2015 HMDA Rule retains existing categories of excluded transactions, clarifies some categories of excluded transactions, and expands the existing exclusion for agricultural-purpose transactions. Effective January 1, 2018, the following transactions will not be reportable under Regulation C:

1. A closed-end mortgage loan or open-end line of credit originated or purchased by a financial institution acting in a fiduciary capacity;

2. A closed-end mortgage loan or open-end line of credit secured by a lien on unimproved land;

3. Temporary financing;

4. The purchase of an interest in a pool of closed-end mortgage loans or open-end lines of credit;

5. The purchase solely of the right to service closed-end mortgage loans or open-end lines of credit;

6. The purchase of closed-end mortgage loans or open-end lines of credit as part of a merger or acquisition, or as part of the acquisition of all of the assets and liabilities of a branch office as defined in 12 CFR 1003.2(c);

7. A closed-end mortgage loan or open-end line of credit, or an application of a closed-end mortgage

revisions in Regulation C, the proposed rule would revise the current definition of ''home mortgage loan'' in their CRA regulations, also effective on January 1, 2018, to mean a ''closed-end mortgage loan'' or an ''open-end line of credit,'' as those terms are defined under new 12 CFR 1003.2(d) and (o), respectively, and as may be amended from time to time, and that is not an excluded transaction under new 12 CFR 1003.3(c)(1)–(10) and (13), as may be amended from time to time.[17] The Agencies have used the scope of HMDA reportable transactions to define ''home mortgage loan'' in the CRA regulations since 1995. The Agencies will review any amendments made to the cross-referenced definitions in HMDA to ensure that such cross-referenced terms continue to meet the statutory objectives of the CRA.

As a result of the proposed revisions to the ''home mortgage loan'' definition, the manner in which some loan transactions are considered under CRA will be affected. Effective January 1, 2018, home improvement loans that are not secured by a dwelling, which are currently required to be reported under Regulation C, will no longer be reportable transactions under the 2015 HMDA Rule. Therefore, also effective January 1, 2018, for purposes of CRA, home improvement loans that are not secured by a dwelling may be considered at the option of the financial institution. A financial institution that opts to have its home improvement loans considered would need to collect and maintain data on these loans in machine readable form under the category of ''other secured consumer loan'' or ''other unsecured consumer loan,'' as appropriate. *See* 12 CFR ____ .12(j)(3) or (4). The Agencies note that, notwithstanding an institution's option, home improvement loans that are not secured by a dwelling may still be evaluated by the Agencies under the lending test set out under 12 CFR ____ .22(a)(1), in circumstances where the consumer lending is so significant a portion of an institution's lending by activity and dollar volume of loans that the lending test evaluation would not meaningfully reflect lending performance if consumer loans were excluded.[18]

Home equity lines of credit secured by a dwelling, which are currently reported at the option of the financial institution under Regulation C, will be covered loans under the 2015 HMDA Rule. Effective January 1, 2018, financial institutions that meet the reporting requirements under the 2015 HMDA Rule will be required to collect, maintain, and report data on home equity lines of credit secured by a dwelling. For purposes of CRA consideration, in the case of financial institutions that report closed-end mortgage loans and/or home equity lines of credit under the 2015 HMDA Rule, those loans would be considered as home mortgage loans under the proposed amended definition of ''home mortgage loan.'' The effect of the proposed change will vary depending upon the amount and characteristics of the financial institution's mortgage loan portfolio. As with all aspects of an institution's CRA performance evaluation, the performance context of the institution will affect how the Agencies will consider home equity lines of credit. Performance context includes a broad range of economic, demographic, and financial institution and community-specific information that the Agencies use to understand the circumstances in which a financial institution's record of performance should be evaluated. Performance context information is used by the Agencies to support a financial institution's level of performance and CRA performance rating. For financial institutions that would not be required to report these transactions under Regulation C, examiners may review the relevant files and consider these loans for CRA performance on a sampling basis under the home mortgage loan category.

The Agencies request comment on their proposal to amend the definition of ''home mortgage loan,'' including how the amended definition may impact a financial institution's CRA performance.

Conforming Changes to the ''Consumer Loan'' Definition

The CRA regulations currently define ''consumer loan'' as a loan to one or more individuals for household, family, or other personal expenditures and that is *not* a home mortgage, small business, or small farm loan under 12 CFR ____.12(j). A ''home equity loan'' is one of five loan categories listed under the definition of ''consumer loan'' and is defined as a ''consumer loan secured by a residence of the borrower'' under 12 CFR ____.12(j)(3). As noted above, the proposed CRA definition of ''home mortgage loan'' would refer to ''closed-end mortgage loans'' and ''open-end lines of credit'' as those terms are defined in §§ 1003.2(d) and 1003.2(o), respectively, of Regulation C. Under Regulation C, a closed-end mortgage loan is defined ''as an extension of credit secured by a lien on a dwelling,'' and therefore, includes a home equity loan secured by a dwelling per 12 CFR 1003.2(d), effective January 1, 2018. Thus, the Agencies believe it is no longer necessary to separately categorize home equity loans under the CRA definition of ''consumer loan'' because both home equity loans and home equity lines of credit would be specifically included in the proposed revised CRA definition of ''home mortgage loan.'' Accordingly, the proposed rule would remove the term ''home equity loan'' from the list of consumer loan categories provided under the definition of ''consumer loan''

loan or open-end line of credit, for which the total dollar amount is less than $500;

8. The purchase of a partial interest in a closed-end mortgage loan or open-end line of credit;

9. A closed-end mortgage loan or open-end line of credit used primarily for agricultural purposes;

10. A closed-end mortgage loan or open-end line of credit that is or will be made primarily for a business or commercial purpose, unless the closed-end mortgage loan or open-end equity line of credit is a home improvement loan under § 1003.2(i), a home purchase under § 1003.2(j), or a refinancing under § 1003.2(p);

11. A closed-end mortgage loan, if the financial institution originated fewer than 25 closed-end mortgage loans in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded closed-end mortgage loan as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded closed-end mortgage loan; or

12. An open-end equity line of credit, if the financial institution originated fewer than 500 open-end equity lines of credit in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded open-end line of credit as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded open-end line of credit (as noted above, the increased threshold from 100 to 500 open-end lines of credit is temporary and applies only to calendar years 2018 and 2019; absent action from the Bureau, the threshold for reporting open-end lines of credit reverts to 100 effective January 1, 2020); or

13. A transaction that provided or, in the case of an application, proposed to provide new funds to the applicant or borrower in advance of being consolidated in a New York State consolidation, extension, and modification agreement classified as a supplemental mortgage under New York Tax Law section 255; the transaction is excluded only if final action on the consolidation was taken in the same calendar year as final action on the new funds transaction.

[17] The 2017 HMDA Rule adds a new exclusion from reporting HMDA data for certain transactions concerning New York consolidation, extension, and modification agreements (also known as NY CEMAs) under new § 1003.3(c)(13).

[18] Q&A § ____.22(a)(1)—2.

in 12 CFR ____.12(j). The Agencies request comment on their proposal to amend the definition of ''consumer loan.''

Changes to the Content of the Public File

The CRA regulations currently provide that financial institutions shall maintain a public file of certain information and specify, among other things, the information that should be maintained and made available to the public upon request under 12 CFR____ .43(a)–(d). Currently, a financial institution that is required to report HMDA data under Regulation C must include a copy of the HMDA disclosure statement that is provided to each financial institution by the Federal Financial Institutions Examination Council in the institution's CRA public file for each of the prior two calendar years per 12 CFR ____.43(b)(2). However, pursuant to changes to Regulation C under the 2015 HMDA Rule, which becomes effective January 1, 2018, financial institutions will no longer be required to provide this HMDA disclosure statement directly to the public. Instead, pursuant to Regulation C, a financial institution will only be required to provide a notice that clearly conveys to the public that they can obtain a copy of the financial institution's disclosure statement on the Bureau's Web site under 12 CFR 1003.5(b). As a result, the proposed rule would amend the CRA public file content requirements under 12 CFR____ .43(b)(2) for consistency and to reduce burden. Specifically, under the proposal, institutions that are required to report HMDA data would need to only maintain the notice required under Regulation C in their CRA public file, rather than a copy of the HMDA disclosure statement. The Agencies request comment on their proposal to amend the CRA public file content requirements.

As explained in more detail under the Regulatory Analysis section of this proposal, the Agencies expect the proposed changes to the CRA definitions and to the content of the public file, to reflect revisions made to the Bureau's Regulation C, to generally have little economic effect and believe the proposed changes would not create additional regulatory burden on financial institutions.

Technical Amendments

''*Home Equity*'' *When Used as a Category of Consumer Loans*

As indicated above, the proposed rule would remove the term ''home equity loan'' currently included under 12 CFR ____.12(j)(3) from the categories of consumer loans listed in 12 CFR ____ .12(j). Based on the new proposed definition of ''consumer loan,'' any cross-references to home equity loans as a category of ''consumer loans'' in the CRA regulations would be invalid. As a result, the proposed rule would amend 12 CFR ____.22, Lending Test, and 12 CFR __.42, Data Collection, Reporting, and Disclosure, to remove the term ''home equity'' each time it appears as a category of consumer loans.

Technical Revision to the ''*Community Development Loan*'' *Definition*

The CRA regulations under 12 CFR ____.12(h) currently define ''community development loan'' as a loan that,

(1) Has as its primary purpose, community development; and

(2) Except in the case of a wholesale or limited purpose bank:

(i) Has not been reported or collected by the bank or an affiliate for consideration in the bank's assessment as a home mortgage, small business, small farm, or consumer loan, unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title); and

(ii) Benefits the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

Effective January 1, 2019, the 2015 HMDA Rule removes appendix A from Regulation C. The instructions for completion of the HMDA LAR currently found in part 1 of that appendix A will not apply to data collected pursuant to the amendments to Regulation C that are effective January 1, 2018. The substantive requirements found in existing appendix A will be moved to the text and commentary of Regulation C and going forward, any reference to appendix A will become obsolete. As a result, the Agencies believe that the reference to appendix A of Regulation C in the ''community development loan'' definition in the CRA regulations needs to be removed. Moreover, effective January 1, 2018, the term ''multifamily dwelling'' will be specifically defined under 12 CFR 1003.2(n). Accordingly, the proposed rule would remove the reference to appendix A in the definition of ''community development loan'' and replace it with a reference to the definition of ''multifamily dwelling'' under new 12 CFR 1003.2(n).

Removal of Obsolete Language Related to the NSP

The NSP was authorized by the Housing and Economic Recovery Act [19] to stabilize communities suffering from foreclosures and abandonment. On December 20, 2010, the Agencies issued a joint final rule amending the definition of ''community development'' to include qualifying NSP-related activities that benefit low-, moderate-, and middle-income individuals and geographies in NSP-target areas.[20] Under the joint final rule, NSP-eligible activities would receive consideration if conducted no later than two years after the last date appropriated funds for the program were required to be spent by the grantees. After the two-year period, the rule would cease to apply. The last date appropriated funds were required to be spent by grantees was March 2014.[21] Thus, pursuant to 12 CFR ____ .12(g)(5)(ii), after March 2016, NSP-eligible activities no longer receive consideration as ''community development'' under the CRA regulations. On that basis, the proposed rule would amend 12 CFR 25.12, 195.12, 228.12, and 345.12 to revise the definition of ''community development'' to remove qualifying NSP-related activities that benefit low-, moderate-, and middle-income individuals and geographies in NSP-targeted areas.

The Agencies request comment on their proposal to make the technical amendments described above.

The Agencies note that they plan to make conforming changes to the relevant Interagency CRA Q&As if the proposed changes to the CRA regulations become final.

Effective Date

The proposed rule would have an effective date of January 1, 2018, to conform to the effective date of the revisions resulting from the Bureau's Regulation C. The Agencies request comment on the proposed effective date.

Regulatory Analysis

Regulatory Flexibility Act

OCC: In general, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires that in connection with a rulemaking, an agency prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities. Under section 605(b) of the RFA, this analysis is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a brief explanatory statement in the **Federal Register** along with its rule.

The OCC currently supervises approximately 956 small entities.

[19] Public Law 110–289, 122 Stat. 2654 (2008).

[20] 75 FR 79278 (Dec. 20, 2010).

[21] *See https://www.hudexchange.info/resources/documents/NSP3_100_Expenditure_Deadline.pdf.*

Although the proposed rule would apply to all OCC-supervised financial institutions, we anticipate that the proposal would not impose costs on any OCC-supervised financial institutions since the proposed rule does not impose new requirements or include new mandates. Any burden that may be associated with changes made to Regulation C HMDA reporting are a result of Bureau rulemakings. However, the proposed rule may reduce regulatory costs for covered financial institutions that are required to report HMDA data because those institutions would no longer be required to keep two years of HMDA disclosure statements in their CRA public file. Instead, covered financial institutions would provide a notice in the public file with a Web site address indicating where the HMDA disclosure statements can be accessed. Among the small entities that the OCC currently supervises, 518 are HMDA reporters. By not having to keep paper copies of the HMDA disclosure statements in their CRA public file, the OCC estimates that the savings for these small entities will be less than $1,142 (10 hours × $114.20 per hour) per entity. Therefore, the proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, the OCC certifies that the joint proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small OCC-supervised entities.

Board: The RFA (5 U.S.C. 601 *et seq.*) generally requires an agency to publish an initial regulatory flexibility analysis with a proposed rule or certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.[22] Based on its analysis, and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing an initial regulatory flexibility analysis and requests public comment on all aspects of its analysis. The Board will, if necessary, conduct a final regulatory flexibility analysis after considering the comments received during the public comment period.

There are 820 Board-supervised state member banks, and 566 are identified as small entities according to the RFA.[23] The Board estimates that the proposed rule will have generally small economic effects for small entities. The new CRA public file disclosure statement option will reduce recordkeeping burden for covered financial institutions. Additionally, the Board expects that the proposed changes to definitions within the CRA performance standards will have little impact on supervisory assessments of CRA performance generally, but could affect some financial institutions more than others depending upon the amount and characteristics of their loan portfolio.

The proposed rule changes the CRA public file notification requirements for covered financial institutions. Financial institutions that are required to report HMDA data can maintain the notice required under Regulation C in their CRA public file of their branch office, rather than the HMDA Disclosure Statement. By allowing covered financial institutions to utilize the same disclosure for both purposes, the proposed rule will reduce compliance burden. As previously stated, there are 566 Board-supervised entities that are identified as small entities by the terms of the RFA. Of those, 304 were HMDA filers in 2016.[24] All FDIC-insured financial institutions reported having 31,096 branch offices, for an average of 7.9 branches per financial institution.[25] The Board assumes it takes one employee 10 minutes at a rate of $76.61 an hour[26] to print and file the CRA notification and an additional 10 minutes to print and file the HMDA notification per year. This equates to an estimated annual printing and filing cost of $25.54 per branch office. Therefore, complying with the new rule will save small entities an estimated $61,336.86 in costs per year.[27]

The Board expects the proposed changes to definitions within the CRA performance standards to generally have little economic effect for small entities, however the amendments could pose some effects for individual entities depending upon the amount and characteristics of their loan portfolio. As noted previously, in some cases the revised scope of the CRA definitions is broader, and in other cases, it is more limited. These changes could affect supervisory assessment of CRA performance for small entities. However, it is unlikely that small financial institutions will be significantly affected given that HMDA reporting will be limited to financial institutions that originate more than 25 home mortgage loans or 100 home equity lines of credit each year.[28] There could be a net effect on CRA examination results for some small entities which may, in turn, affect the future behavior of those financial institutions. But, it is difficult to accurately determine the likelihood and degree of aggregate lending or economic effects that may result because they are dependent upon firm-specific business plans and propensities to lend.

Finally, Board-supervised small entities will likely benefit from the harmonization of definitions for CRA performance standards with HMDA data reporting requirements by avoiding unnecessary confusion and costs. Inconsistencies between CRA examination metrics and the HMDA data, which is used to assess performance, could lead to misleading results causing small entities to change future lending behavior.

1. *Statement of the need for, and objectives of, the proposed rule.* The proposed rule makes revisions to certain definitions in the current CRA regulations and the public file content requirements to conform to recent changes made by the Bureau to Regulation C, removes cross references related to the proposed definitional changes, and removes an obsolete reference to the NSP.

2. *Small entities affected by the proposed rule.* State member banks that are subject to the Board's CRA regulation would be affected. The Board currently supervises approximately 566 small entities, and does not believe the proposed rule will have a significant economic impact on these entities. As noted, the Board believes that the proposed changes to the definition of ''home mortgage loan'' and ''consumer loan'' will have minimal impact on

[22] *See* 5 U.S.C. 601 *et seq.*

[23] Call Report Data as of June 30, 2017.

[24] 2016 HMDA Data and Call Report Data as of June 30, 2017.

[25] 2015 Summary of Deposits Data.

[26] Estimated total hourly compensation for Compliance Officers in the Depository Credit Intermediation sector as of December 2016. The estimate includes the May 2015 90th percentile hourly wage rate reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates. This wage rate has been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2015 and December 2016 (2.5 percent) and grossed up by 54.3 percent to account for non-monetary compensation as reported by the December 2016 Employer Costs for Employee Compensation Data.

[27] Assuming that each covered institution will no longer have to print and file the CRA notification, the recordkeeping burden for each branch office declines by 10 minutes for all 7.9 branch offices, for all 304 small entities that are HMDA filers.

[28] The open-end lines of credit threshold will increase from 100 to 500 loans on a temporary basis for a period of two years (calendar years 2018 and 2019) pursuant to the 2017 HMDA Rule. The Bureau is not making the threshold increase for open-end lines of credit permanent at this time. Absent further action by the Bureau, effective January 1, 2020, the open-end threshold will be restored to the 2015 HMDA Rule level of 100 open-end lines of credit, and creditors originating between 100 and 499 open-end lines of credit will need to begin collecting and reporting HMDA data for open-end lines of credit at this time.

supervisory assessments of a financial institution's CRA performance generally, but could affect some financial institutions more than others depending on the characteristics of their loan portfolios. For example, home improvement loans that are not secured by a dwelling, which are currently required to be reported under Regulation C, will no longer be reportable transactions under HMDA, effective January 1, 2018. A financial institution that opts to have these loans considered would need to collect and maintain data on these loans in machine readable form under the category of ''other secured consumer loan'' or ''other unsecured consumer loan,'' as appropriate.

The Board invites comment on the effect of the proposed rule on small entities.

3. *Recordkeeping, reporting, and compliance requirements.* The proposed rule would impose minor recordkeeping, reporting, or compliance requirements on some entities. Additionally, it is anticipated that by allowing covered financial institutions to utilize the Regulation C notice that clearly conveys to the public that they can obtain a copy of the financial institution's HMDA disclosure statement at the Bureau's Web site to satisfy the associated CRA public file content requirements the proposed rule will reduce compliance burden.

4. *Other federal rules.* The Board has not identified any federal rules that duplicate, overlap, or conflict with the proposed rule.

5. *Significant alternatives to the proposed revisions.* The Board is not aware of any significant alternatives that would further minimize the impact on small entities of the proposed rule, but solicits comment on any significant alternatives that would reduce the regulatory burden associated on small entities with this proposed rule.

FDIC: The RFA (5 U.S.C. 601 *et seq.*) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to $550 million). A regulatory flexibility analysis, however, is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the proposed rule. For the reasons provided below, the FDIC certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

There are 3,787 FDIC-supervised financial institutions, and 3,080 are identified as small entities according to the RFA.[29] The FDIC estimates that the proposed rule would have generally small economic effects for small entities. The new proposed CRA public file disclosure statement option would reduce regulatory costs for covered financial institutions. Additionally, the FDIC expects that the proposed changes to definitions within the CRA performance standards would have little impact on supervisory assessments of CRA performance generally, but could affect some financial institutions more than others depending upon the amount and characteristics of their loan portfolio.

The proposed rule changes the CRA public file notification requirements for covered financial institutions. Financial institutions required to report HMDA data can maintain the notice required under Regulation C in the CRA public file of their branch office, rather than the HMDA Disclosure Statement. By allowing covered financial institutions to utilize the same disclosure for both purposes, the proposed rule would reduce regulatory costs. As previously stated, there are 3,080 FDIC-supervised entities that are identified as small entities by the terms of the RFA. Of those, 1,856 were HMDA filers in 2015.[30] All FDIC-insured financial institutions reported having 31,096 branch offices, for an average of 7.9 branches per financial institution.[31] The FDIC assumes it takes one employee 10 minutes at a rate of $76.61 an hour [32] to print and file the CRA notification and an additional 10 minutes to print and file the HMDA notification per year. This equates to an estimated annual printing and filing cost of $25.54 per branch office. Therefore, complying with the new rule would save small entities an estimated $187,214 in costs per year.[33]

The FDIC expects the proposed changes to definitions within the CRA performance standards to generally have little economic effect for small entities, however the amendments could pose some effects for individual entities depending upon the amount and characteristics of their loan portfolio. As noted previously, in some cases the revised scope of the CRA definitions is broader, and in other cases, it is more limited. These changes could affect supervisory assessment of CRA performance for small entities. However, it is unlikely that small financial institutions would be significantly affected given that HMDA reporting will be limited to financial institutions that originate more than 25 home mortgage loans or 100 home equity lines of credit each year.[34] There could be a net effect on CRA examination results for some small entities which may, in turn, affect the future behavior of those financial institutions. But, it is difficult to accurately determine the likelihood and degree of aggregate lending or economic effects that may result because they are dependent upon firm-specific business plans and propensities to lend.

Finally, FDIC-supervised small entities would likely benefit from the harmonization of definitions for CRA performance standards with HMDA data reporting requirements by avoiding unnecessary confusion and costs. Inconsistencies between CRA examination metrics and the HMDA data which is used to assess performance could lead to misleading results causing small entities to change future lending behavior.

Paperwork Reduction Act of 1995

Certain provisions of the proposed rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the

[29] Call Report Data as of Dec. 31, 2016.

[30] 2015 HMDA Data and Call Report Data as of Dec. 31, 2015.

[31] 2015 Summary of Deposits Data.

[32] Estimated total hourly compensation for Compliance Officers in the Depository Credit Intermediation sector as of December 2016. The estimate includes the May 2015 90th percentile hourly wage rate reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates. This wage rate has been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2015 and December 2016 (2.5 percent) and grossed up by 54.3 percent to account for non-monetary compensation as reported by the December 2016 Employer Costs for Employee Compensation Data.

[33] Assuming that each covered institution will no longer have to print and file the CRA notification, the recordkeeping burden for each branch office declines by 10 minutes for all 7.9 branch offices, for all 1,856 small entities that are HMDA filers.

[34] The open-end lines of credit threshold will increase from 100 to 500 loans on a temporary basis for a period of two years (calendar years 2018 and 2019) pursuant to the 2017 HMDA Rule. The Bureau is not making the threshold increase for open-end lines of credit permanent at this time. Absent further action by the Bureau, effective January 1, 2020, the open-end threshold will be restored to the 2015 HMDA Rule level of 100 open-end lines of credit, and creditors originating between 100 and 499 open-end lines of credit will need to begin collecting and reporting HMDA data for open-end lines of credit at this time.

Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently-valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this proposed rulemaking have been submitted by the OCC and FDIC to OMB for review and approval under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of the OMB's implementing regulations (5 CFR 1320). The OMB control number for the OCC is 1557–0160 and the FDIC is 3064–0092. The OMB control number for the Board is 7100–0197 and will be extended, with revision. The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

Under this proposal, effective January 1, 2018, financial institutions required to collect data under the CRA would also be required to collect data for open-end lines of credit in MSA and non-MSA areas where they have no branch or home office. The Agencies estimate that this proposed change would not result in an increase in burden under the currently approved CRA information collections because the burden associated with the above-described requirement is accounted for under the HMDA information collections.[35]

The agencies have determined that the proposed revised definition of ''home mortgage loan'' to include home equity lines of credit and to exclude home improvement loans that are not secured by a dwelling (*i.e.,* home improvement loans that are unsecured or that are secured by some other type of collateral) does not warrant a change to the current burden estimates.

Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the Agencies' functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on aspects of this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the **ADDRESSES** section of this document. A copy of the comments may also be submitted to the OMB desk officer for the Agencies: By mail to U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503; by facsimile to (202) 395–5806; or by email to: *oira_submission@omb.eop.gov,* Attention, Federal Banking Agency Desk Officer.

Proposed Information Collection

Title of Information Collection: Reporting, Recordkeeping, and Disclosure Requirements Associated with the Community Reinvestment Act (CRA).

Frequency of Response: Annually.

Affected Public: Businesses or other for-profit.

Respondents:

OCC: National banks, trust companies, savings associations (except special purpose savings associations pursuant to 12 CFR 195.11(c)(2)), insured Federal branches and any Federal branch that is uninsured that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)).

Board: State member banks.

FDIC: Insured state nonmember banks and insured state branches.

Abstract: The CRA was enacted in 1977 and is implemented by 12 CFR parts 25, 195, 228, and 345. The CRA directs the Agencies to evaluate financial institutions' records of helping to meet the credit needs of their entire communities, including low- and moderate-income areas consistent with the safe and sound operation of the institutions. The CRA is implemented through regulations issued by the Agencies.[36]

In 1995, the federal banking agencies issued substantially identical regulations under CRA to reduce unnecessary compliance burden, promote consistency in CRA assessments, and encourage improved performance.[37] As a result, the current reporting, recordkeeping, and disclosure requirements under the CRA regulations depend in part on a bank's size.

Under the CRA regulations, large banks are defined as those with assets of $1.226 billion or more for the past two consecutive year-ends; all other banks are considered small or intermediate.[38] The banking agencies amend the definition of a small bank and an intermediate small bank in their CRA regulations each year when the asset thresholds are adjusted for inflation pursuant to the CRA regulations, most recently in January 2017.[39]

Other than the information collections pursuant to the CRA, the Agencies have no information collection that supplies data regarding the community reinvestment activities.

PRA Burden Estimates

OCC

Number of respondents: Recordkeeping requirement, small business and small farm loan register, 142; Optional recordkeeping requirements, consumer loan data, 85, and other loan data, 25; Reporting requirements, assessment area delineation, 189; loan data: Small business and small farm, 142, community development, 142, and HMDA out of MSA, 142; Optional reporting requirements, data on lending by a consortium or third party, 31; affiliate lending data, 9; request for strategic plan approval, 5; request for designation as a wholesale or limited purpose bank, 12; Disclosure requirement, public file, 1,234.

Estimated average hours per response: Recordkeeping requirement, small business and small farm loan register: 219 hours; Optional recordkeeping requirements, consumer loan data, 326 hours, and other loan data, 25 hours; Reporting requirements, assessment area delineation, 2 hours; loan data: Small business and small farm, 8 hours, community development, 13 hours, and HMDA out of MSA, 253 hours; Optional reporting requirements, data on lending by a consortium or third party, 17 hours; affiliate lending data, 38 hours; request for strategic plan approval, 275 hours; request for designation as a wholesale or

[35] OMB Control Number 1557–0159 (OCC); OMB Control Number 7100–0247 (Board); and OMB Control Number 3064–0046 (FDIC).

[36] As noted above in footnote 2, the Dodd-Frank Act transferred from the OTS all authorities (including rulemaking) relating to savings associations to the OCC and all authorities (including rulemaking) relating to savings and loan holding companies (SLHCs) to the Board on July 21, 2011.

[37] *See* 60 FR 22156 (May 4, 1995).

[38] Beginning January 18, 2017, banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than $1.226 billion are small banks or small savings associations. Small banks or small savings associations with assets of at least $307 million as of December 31 of both of the prior two calendar years, and less than $1.226 billion as of December 31 of either of the prior two calendar years, are intermediate small banks or intermediate small savings associations.

[39] *See* 82 FR 5354 (Jan. 18, 2017).

limited purpose bank, 4 hours; Disclosure requirement, public file, 10 hours.

Estimated annual reporting hours: Recordkeeping requirement, small business and small farm loan register: 31,098 hours; Optional recordkeeping requirements, consumer loan data, 27,710 hours and other loan data, 625 hours; Reporting requirements, assessment area delineation, 378 hours; loan data: Small business and small farm, 1,136 hours, community development, 1,846 hours, and HMDA out of MSA, 35,926 hours; Optional reporting requirements, data on lending by a consortium or third party, 527 hours; affiliate lending data, 342 hours; request for strategic plan approval, 1,375 hours; request for designation as a wholesale or limited purpose bank, 48 hours; Disclosure requirement, public file, 12,340 hours.

Total annual burden: 113,351 hours.

Board

Number of respondents: Recordkeeping requirement, small business and small farm loan register, 94; Optional recordkeeping requirements, consumer loan data, 21, and other loan data, 15; Reporting requirements, assessment area delineation, 98; loan data: Small business and small farm, 94, community development, 98, and HMDA out of MSA, 89; Optional reporting requirements, data on lending by a consortium or third party, 9; affiliate lending data, 8; request for strategic plan approval, 2; request for designation as a wholesale or limited purpose bank, 1; Disclosure requirement, public file, 817.

Estimated average hours per response: Recordkeeping requirement, small business and small farm loan register: 219 hours; Optional recordkeeping requirements, consumer loan data, 326 hours, and other loan data, 25 hours; Reporting requirements, assessment area delineation, 2 hours; loan data: Small business and small farm, 8 hours, community development, 13 hours, and HMDA out of MSA, 253 hours; Optional reporting requirements, data on lending by a consortium or third party, 17 hours; affiliate lending data, 38 hours; request for strategic plan approval, 275 hours; request for designation as a wholesale or limited purpose bank, 4 hours; Disclosure requirement, public file, 10 hours.

Estimated annual reporting hours: Recordkeeping requirement, small business and small farm loan register: 20,586 hours; Optional recordkeeping requirements, consumer loan data, 6,846 hours and other loan data, 375 hours; Reporting requirements, assessment area delineation, 196 hours; loan data: Small business and small farm, 752 hours, community development, 1,274 hours, and HMDA out of MSA, 22,517 hours; Optional reporting requirements, data on lending by a consortium or third party, 153 hours; affiliate lending data, 304 hours; request for strategic plan approval, 550 hours; request for designation as a wholesale or limited purpose bank, 4 hours; Disclosure requirement, public file, 8,170 hours.

Total annual burden: 61,727 hours.

FDIC

Number of respondents: Reporting requirements: Request for designation as a wholesale or limited purpose bank, 1 respondent; Strategic plan, 7 respondents; Small business/small farm loan data, 393 respondents; Community development loan data, 393 respondents; Home mortgage loans, 393 respondents; Data on affiliate lending, 200 respondents; Data on lending by a consortium or a third party, 75 respondents; and Assessment area data, 393 respondents; Recordkeeping requirements: Small business/small farm loan register, 393 respondents; Optional consumer loan data, 75 respondents; and Other loan data, 100 respondents; Disclosure requirements: Content and availability of public file, 3,971 respondents.

Estimated average hours per response: Reporting requirements: Request for designation as a wholesale or limited purpose bank, 4 hours; Strategic plan, 400 hours; Small business/small farm loan data, 8 hours; Community development loan data, 13 hours; Home mortgage loans, 253 hours; Data on affiliate lending, 38 hours; Data on lending by a consortium or a third party, 17 hours; and Assessment area data, 2 hours; Recordkeeping requirements: Small business/small farm loan register, 219 hours; Optional consumer loan data, 326 hours; and Other loan data, 25 hours; Disclosure requirements: Content and availability of public file, 10 hours.

Estimated annual reporting hours: Reporting requirements: Request for designation as a wholesale or limited purpose bank, 4 hours; Strategic plan, 2,800 hours; Small business/small farm loan data, 3,144 hours; Community development loan data, 5,109 hours; Home mortgage loans, 99,429 hours; Data on affiliate lending, 7,600 hours; Data on lending by a consortium or a third party, 1,275 hours; and Assessment area data, 786 hours; Recordkeeping requirements: Small business/small farm loan register, 86,067 hours; Optional consumer loan data, 24,450 hours; and Other loan data, 2,500 hours; Disclosure requirements: Content and availability of public file, 39,710 hours.

Total annual burden: 272,874 hours.

Unfunded Mandates Reform Act of 1995

The OCC analyzed the proposed rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation). The OCC has determined that this proposed rule would not result in expenditures by State, local, and Tribal governments, or the private sector, of $100 million or more in any one year.[40] Accordingly, the OCC has not prepared a written statement to accompany this notice of proposed rulemaking.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Agencies to use plain language in all proposed and final rules published after January 1, 2000. The Agencies invite comment on how to make this proposed rule easier to understand.

For example:

- Have the Agencies organized the material to inform your needs? If not, how could the Agencies present the proposed rule more clearly?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposal be more clearly stated?
- Does the proposed regulation contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the agencies incorporate to make the proposed regulation easier to understand?

[40] The OCC anticipates that the proposal would not impose costs on any OCC-supervised financial institutions since the proposed rule does not impose new requirements or include new mandates. Any burden that may be associated with changes made to Regulation C HMDA reporting are a result of CFPB rulemakings.

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 195

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 228

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons discussed in the **SUPPLEMENTARY INFORMATION** section, the Office of the Comptroller of the Currency proposes to amend 12 CFR parts 25 and 195 as follows:

PART 25—COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), 1835a, 2901 through 2908, and 3101 through 3111.

§ 25.12 [Amended]

■ 2. Section 25.12 is amended:
■ a. By adding ''or'' at the end of paragraph (g)(3);
■ b. By removing ''; or'' at the end of (g)(4), and adding in its place ''.'';
■ c. By removing paragraph (g)(5);
■ d. In paragraph (h)(2)(i), by removing the phrase ''unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title)'' and adding in its place the phrase ''unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)'';
■ e. By removing paragraph (j)(3), and redesignating paragraph (j)(4) as paragraph (j)(3) and redesignating paragraph (j)(5) as paragraph (j)(4); and
■ f. In paragraph (l), by removing the phrase '' 'home improvement loan,' 'home purchase loan,' or a 'refinancing' as defined in § 1003.2 of this title'' and adding in its place the phrase ''closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title, and that is not an excluded transaction under § 1003.3(c)(1)–(10) and (13) of this title''.

§ 25.22 [Amended]

■ 3. Section 25.22 is amended in paragraph (a)(1), by removing the phrase ''home equity,'' after ''credit card.''

§ 25.42 [Amended]

■ 4. Section 25.42 is amended in paragraph (c)(1), by removing the phrase ''home equity,'' after ''credit card.''
■ 5. Section 25.43 is amended by revising paragraph (b)(2) to read as follows:

§ 25.43 Content and availability of public file.

* * * * *

(b) * * *

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) Web site at *www.consumerfinance.gov/hmda.* In addition, a bank that elected to have the OCC consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's Web site. The bank shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

* * * * *

PART 195—COMMUNITY REINVESTMENT

■ 6. The authority citation for part 195 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1814, 1816, 1828(c), 2901 through 2908, and 5412(b)(2)(B).

§ 195.12 [Amended]

■ 7. Section 195.12 is amended:
■ a. By adding ''or'' at the end of paragraph (g)(3);
■ b. By removing ''; or'' at the end of (g)(4), and adding in its place ''.'';
■ c. By removing paragraph (g)(5);
■ d. In paragraph (h)(2)(i), by removing the phrase ''unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title)'' and adding in its place the phrase ''unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)'';
■ e. By removing paragraph (j)(3), and redesignating paragraph (j)(4) as paragraph (j)(3) and redesignating (j)(5) as paragraph (j)(4); and
■ f. In paragraph (l), by removing the phrase '' 'home improvement loan,' 'home purchase loan,' or a 'refinancing' as defined in § 1003.2 of this title'' and adding in its place the phrase ''closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title and that is not an excluded transaction under § 1003.3(c)(1)–(10) and (13) of this title''.

§ 195.22 [Amended]

■ 8. Section 195.22 is amended in paragraph (a)(1), by removing the phrase ''home equity,'' after ''credit card.''

§ 195.42 [Amended]

■ 9. Section 195.42 is amended in paragraph (c)(1), by removing the phrase ''home equity,'' after ''credit card.''
■ 10. Section 195.43 is amended by revising paragraph (b)(2) to read as follows:

§ 195.43 Content and availability of public file.

* * * * *

(b) * * *

(2) *Savings associations required to report Home Mortgage Disclosure Act (HMDA) data.* A savings association required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) Web site at *www.consumerfinance.gov/hmda.* In addition, a savings association that elected to have the appropriate Federal banking agency consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's Web site. The savings association shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

* * * * *

Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons discussed in the **SUPPLEMENTARY INFORMATION** section, the

Board of Governors of the Federal Reserve System proposes to amend part 228 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

■ 1. The authority citation for part 228 continues to read as follows:

Authority: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 *et seq.*

§ 228.12 [Amended]

■ 2. Section 228.12 is amended:
■ a. By adding ''or'' at the end of paragraph (g)(3);
■ b. By removing ''; or'' at the end of (g)(4), and adding in its place ''.'';
■ c. By removing paragraph (g)(5);
■ d. In paragraph (h)(2)(i), by removing the phrase ''unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title)'' and adding in its place the phrase ''unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)'';
■ e. By removing paragraph (j)(3), and redesignating paragraph (j)(4) as paragraph (j)(3) and redesignating paragraph (j)(5) as paragraph (j)(4); and
■ f. In paragraph (l), by removing the phrase '' 'home improvement loan,' 'home purchase loan,' or a 'refinancing' as defined in § 1003.2 of this title'' and adding in its place the phrase, ''closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title and that is not an excluded transaction under § 1003.3(c)(1)–(10) and (13) of this title''.

§ 228.22 [Amended]

■ 3. Section 228.22 is amended in paragraph (a)(1), by removing the phrase ''home equity,'' after ''credit card.''

§ 228.42 [Amended]

■ 4. Section 228.42 is amended in paragraph (c)(1), by removing the phrase ''home equity,'' after ''credit card.''
■ 5. Section 228.43 is amended by revising paragraph (b)(2), to read as follows:

§ 228.43 Content and availability of public file.

* * * * *

(b) * * *

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) Web site at *www.consumerfinance.gov/hmda.* In addition, a bank that elected to have the Board consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's Web site. The bank shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

* * * * *

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons discussed in the **SUPPLEMENTARY INFORMATION** section, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 345 of chapter III of title 12 of the Code of Federal Regulations to read as follows:

PART 345—COMMUNITY REINVESTMENT

■ 1. The authority citation for part 345 continues to read as follows:

Authority: 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2908, 3103–3104, and 3108(a).

§ 345.12 [Amended]

■ 2. Section 345.12 is amended:
■ a. By adding ''or'' at the end of paragraph (g)(3);
■ b. By removing ''; or'' at the end of (g)(4), and adding in its place ''.'';
■ c. By removing paragraph (g)(5);
■ d. In paragraph (h)(2)(i), by removing the phrase ''unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title)'' and adding in its place the phrase ''unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)'';
■ e. By removing paragraph (j)(3), and redesignating paragraph (j)(4) as paragraph (j)(3) and redesignating paragraph (j)(5) as paragraph (j)(4); and
■ f. In paragraph (l), by removing the phrase '''home improvement loan,' 'home purchase loan,' or a 'refinancing' as defined in§ 1003.2 of this title'' and adding in its place the phrase, ''closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title and that is not an excluded transaction under § 1003.3(c)(1)–(10) and (13) of this title''.

§ 345.22 [Amended]

■ 3. Section 345.22 is amended in paragraph (a)(1), by removing the phrase ''home equity,'' after ''credit card.''

§ 345.42 [Amended]

■ 4. Section 345.42 is amended in paragraph (c)(1), by removing the phrase ''home equity,'' after ''credit card.''
■ 5. Section 345.43 is amended by revising paragraph (b)(2), to read as follows:

§ 345.43 Content and availability of public file.

* * * * *

(b) * * *

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) Web site at *www.consumerfinance.gov/hmda.* In addition, a bank that elected to have the FDIC consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's Web site. The bank shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

* * * * *

Dated: September 12, 2017.

Keith A. Noreika,

Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, September 6, 2017.

Ann E. Misback,

Secretary of the Board.

By order of the Board of Directors.

Dated at Washington, DC, this 31st day of August, of 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–19765 Filed 9–19–17; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 301

[REG–105004–16]

RIN 1545–BN35

Use of Truncated Taxpayer Identification Numbers on Forms W–2, Wage and Tax Statement, Furnished to Employees

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations under sections 6051 and 6052 of the Internal Revenue Code (Code). To aid employers' efforts to protect employees from identity theft, these proposed regulations would amend existing regulations to permit employers to voluntarily truncate employees' social security numbers (SSNs) on copies of Forms W–2, Wage and Tax Statement, that are furnished to employees so that the truncated SSNs appear in the form of IRS truncated taxpayer identification numbers (TTINs). These proposed regulations also would amend the regulations under section 6109 to clarify the application of the truncation rules to Forms W–2 and to add an example illustrating the application of these rules. Additionally, these proposed amendments would delete obsolete provisions and update cross references in the regulations under sections 6051 and 6052. These proposed regulations affect employers who are required to furnish Forms W–2 and employees who receive Forms W–2.

DATES: Written or electronic comments and requests for a public hearing must be received by December 18, 2017.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–105004–16), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–105004–16), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent via the Federal eRulemaking Portal at *www.regulations.gov* (REG–105004–16).

FOR FURTHER INFORMATION CONTACT: Concerning these proposed regulations, Eliezer Mishory, (202) 317–6844; concerning submissions of comments and/or requests for a hearing, Regina Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1), the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR part 31), and the Procedure and Administration Regulations (26 CFR part 301) regarding statements that are required to be furnished to employees by employers or other persons under sections 6051 and 6052 of the Code. Section 6051(a) generally requires that an employer provide to each employee on or before January 31st of the succeeding year a written statement that shows the employee's total amount of wages and the total amount deducted and withheld as tax from those wages, along with other information, for each calendar year. Employers must use Form W–2 (or a substitute statement that complies with applicable revenue procedures relating to such statements) to provide the information required by section 6051(a) to employees. See § 31.6051–1(a)(1)(i); Rev. Proc. 2016–54, 2016–45 I.R.B. 685, also published as Publication 1141, ''General Rules and Specifications for Substitute Forms W–2 and W–3,'' or any successor guidance. Section 6051(d) provides that, when required to do so by regulations, employers must file with the Secretary duplicates of the forms required to be furnished to employees under section 6051. Section 31.6051–2(a) generally requires employers to file Social Security Administration copies of Forms W–2 with the Social Security Administration. A person making a payment of third-party sick pay to an employee of another employer (payee) is required under section 6051(f)(1) to furnish a written statement to the employer for whom services are normally rendered containing certain information, including the payee's SSN. Under certain conditions, the employer for whom services are normally rendered is required under section 6051(f)(2) to furnish a Form W–2 to the payee. This situation may arise, for example, when an insurance company is making payments to an employee of another employer because the employee is temporarily absent from work due to injury, sickness or disability, and the insurance company has satisfied the necessary requirements under § 32.1(e) of the Temporary Employment Tax Regulations under the Act of December 29, 1981 (Pub. L. 97–123) to transfer the obligation to do Form W–2 reporting to the employer. Employers also must use Form W–2 to file and furnish information regarding payment of wages in the form of group-term life insurance under section 6052.

Section 6109(a) authorizes the Secretary to prescribe regulations with respect to the inclusion in returns, statements, or other documents of an identifying number as may be prescribed for securing proper identification of a person. On July 15, 2014, the Treasury Department and the IRS published in the **Federal Register** (79 FR 41127–02) final regulations (TD 9675) authorizing the use of TTINs on certain payee statements and certain other documents. These final regulations were in response to concerns about the risks of identity theft, including its effect on tax administration.

Section 301.6109–4(b) generally provides that a TTIN may be used to identify any person on any statement or other document that the internal revenue laws require to be furnished to another person. Under § 301.6109–4(a), a TTIN is an individual's SSN, IRS individual taxpayer identification number (ITIN), IRS adoption taxpayer identification number (ATIN), or IRS employer identification number (EIN) in which the first five digits of the nine-digit number are replaced with Xs or asterisks. For example, a TTIN replacing an SSN appears in the form XXX–XX–1234 or ***–**–1234. Section 301.6109–4(b)(2)(ii) prohibits using TTINs if, among other things, a statute, regulation, other guidance published in the Internal Revenue Bulletin, form, or instructions specifically requires the use of an SSN. Additionally, § 301.6109–4(b)(2)(iii) prohibits the use of TTINs on any return, statement, or other document that is required to be filed with or furnished to the IRS.

Prior to being amended by the Protecting Americans from Tax Hikes (PATH) Act of 2015, Public Law 114–113, div. Q, title IV, 129 Stat. 2242, section 6051(a)(2) specifically required employers to include their employees' SSNs on copies of Forms W–2 that are furnished to employees. In addition, current regulations under § 31.6051–1, as well as forms and instructions, require employers to include their employees' SSNs on copies of Forms W–2 that are furnished to employees. Section 409 of the PATH Act amended section 6051(a)(2) by striking ''his social security account number'' from the list of information required on Form W–2 and inserting ''an identifying number for the employee'' instead. This statutory amendment is effective for statements issued after December 18, 2015, the date that the PATH Act was signed into law. Because an SSN is no longer required by section 6051, the Treasury Department and the IRS propose amending the regulations to permit employers to truncate employees' SSNs to appear in the form of TTINs on copies of Forms W–2 that are furnished to employees. If the proposed regulations are finalized without change, the IRS intends to incorporate the revised regulations into forms and instructions, permitting employers to use a TTIN on the employee copy of the Form W–2. See § 301.6109–4(b)(2)(i) and (ii).

Explanation of Provisions

Truncated SSN Permitted on Employee's Copies of Form W–2

These proposed regulations amend § 31.6051–1 to permit employers to truncate employees' SSNs to appear in the form of a TTIN on copies of Forms W–2 that are furnished to employees under section 6051. Consistent with the rule in § 301.6109–4(b)(2)(iii), prohibiting the use of TTINs on any return, statement, or other document that is required to be filed with or furnished to the IRS, these proposed regulations amend § 31.6051–2 to clarify that employers may not truncate an employee's SSN to appear in the form of a TTIN on a copy of a Form W–2 that is filed with the Social Security Administration. This result is appropriate because both the IRS and the SSA need to utilize Forms W–2 to properly identify individuals to be able to carry out their respective duties.

Consistent with the rule in § 301.6109–4(b)(2)(ii) that prohibits using TTINs if, among other things, a statute specifically requires the use of an SSN, the proposed regulations also amend § 31.6051–3 to clarify that a payee's SSN may not be truncated to appear in the form of a TTIN on a statement furnished to the employer of the payee who received sick pay from a third party because section 6051(f)(1)(A)(i) specifically requires such a statement to contain the employee's SSN. Nonetheless, these proposed regulations permit employers to truncate payees' SSNs to appear in the form of TTINs on copies of Forms W–2 that are furnished under section 6051(f)(2) to payees that report such third-party sick pay, in accordance with the general rule governing the reporting of wages to employees on Forms W–2 under section 6051(a), because section 6051(f)(2) does not specifically require the use of an SSN.

Further, these proposed regulations amend § 1.6052–2 to permit employers to truncate employees' SSNs to appear in the form of TTINs on copies of Forms W–2 that are furnished to employees under section 6052(b) regarding payment of wages in the form of group-term life insurance.

These proposed regulations amend § 301.6109–4 to clarify that truncation is not allowed on any return, statement, or other document that is required to be filed with or furnished to the Social Security Administration under the internal revenue laws. These proposed regulations also clarify the rule prohibiting truncation if a statute, regulation, other guidance published in the Internal Revenue Bulletin, form, or instructions, specifically requires use of a SSN, ITIN, ATIN, or EIN. The proposed regulations provide that truncation is allowed if a statute or IRS guidance (*e.g.,* regulations, forms, instructions), that specifically requires use of a SSN, ITIN, ATIN, or EIN, also specifically states that the taxpayer identifying number may be truncated. These proposed regulations also add an example illustrating the application of these rules to Forms W–2. These proposed regulations also amend the existing example for clarity.

Miscellaneous Updates to Regulations Under Sections 6051 and 6052

In addition to the amendments relating to the truncation of employees' SSNs to appear in the form of TTINs in specific circumstances, these proposed regulations eliminate obsolete provisions and update cross references in the regulations under sections 6051 and 6052, as explained below.

First, these proposed regulations amend § 31.6051–1 to remove obsolete provisions regarding compensation, as defined in the Railroad Retirement Tax Act, paid during 1968, 1969, 1970, and 1971 and reported on the now obsolete Form W–2 (RR); the special rule for statements with respect to the refundable earned income credit for Form W–2 for 1987 and 1988; and references to the annual contribution base (repealed in 1993) for wages subject to the Hospital Insurance tax (commonly known as Medicare tax).

Second, these proposed regulations amend § 31.6051–1 to remove obsolete cross references, including a cross reference to former § 301.6676–1 relating to the penalty for failure to report an identification number or an account number, and a cross reference to section 6723 (prior to its amendment in 1989) that was relevant for Forms W–2 that were due from the beginning of 1987 through the end of 1989.

Third, these proposed regulations amend § 31.6051–2 to update now inaccurate cross references resulting from statutory and regulatory changes regarding penalties for failures to file, and to remove a cross reference to section 6723 (prior to its amendment in 1989) that was relevant for Forms W–2 that were due from the beginning of 1987 through the end of 1989. These proposed regulations also change the title of § 31.6051–2 from ''Information returns on Form W–3 and Internal Revenue Service copies of Forms W–2'' to ''Information returns on Form W–3 and Social Security Administration copies of Forms W–2,'' to conform with the text of the regulation that refers to the Social Security Administration copies of Form W–2. In addition, these proposed regulations remove obsolete references in § 31.6051–2 to the requirements to submit information on magnetic tape and insert a reference to the requirements to submit information on magnetic media.

Fourth, these proposed regulations amend § 31.6051–3 to remove the obsolete transition rule for third-party sick pay that was paid to a payee after December 31, 1980, and before May 1, 1981.

Fifth, these proposed regulations amend § 1.6052–2 to remove an obsolete rule that allowed employers to use a statement other than a Form W–2 to satisfy the requirement to furnish a statement to an employee with respect to wages paid in the form of group-term life insurance. This rule was relevant for years prior to 1973, before § 1.6052–1 was amended to require employers to report wages in the form of group-term life insurance on Form W–2. At the same time, to conform to this new requirement, § 1.6052–2 was amended to provide that the requirement to furnish a statement to an employee with respect to wages paid in the form of group-term life insurance may be satisfied by furnishing to the employee the employee's copy of Form W–2 that was filed pursuant to § 1.6052–1. Because the transition period to require employers to file Form W–2 has long since passed and because the Treasury Department and the IRS understand that copies of Forms W–2 are used to satisfy the requirement to furnish statements to employees under § 1.6052–2, these proposed regulations require employers to furnish to employees the employees' copies of Forms W–2 that were filed pursuant to § 1.6052–1, and these proposed regulations make conforming changes throughout that section.

Finally, these proposed regulations update the now inaccurate cross reference resulting from statutory changes regarding penalties for failures to furnish statements under section 6052 and remove the deemed compliance rule, which applied only to years before 1972.

Proposed Effective/Applicability Date

These proposed regulations will be effective on the date of the publication of the Treasury Decision adopting these rules as final in the **Federal Register**. These proposed regulations amend the effective/applicability date provisions in § 31.6051–1, § 31.6051–3, and § 301.6109–4, and add applicability date provisions to § 1.6052–2 and § 31.6051–2. Several state tax administrators have requested additional time to develop systems to process the copies of Forms

W–2 filed with state income tax returns that may contain truncated SSNs. In light of this request, these proposed regulations will not apply to Forms W–2 required to be furnished before January 1, 2019. Accordingly, these proposed regulations provide that these regulations, as amended, will be applicable for statements required to be filed and furnished under sections 6051 and 6052 after December 31, 2018.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings notices, and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS Web site at *www.irs.gov.*

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. Because these proposed regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of these proposed regulations. All comments submitted will be made available at *www.regulations.gov* or upon request. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Eliezer Mishory of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad Retirement, Reporting and recordkeeping requirements, Social Security, Unemployment compensation.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1, 31 and 301 are proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1continues to read in part as follows:

Authority: 26 U.S.C. 7805, unless otherwise noted.

* * * * *

■ **Par. 2.** Section 1.6052–2 is amended by:

■ 1. Revising paragraph (a).

■ 2. Removing paragraph (b).

■ 3. Redesignating paragraph (e) as new paragraph (b).

■ 4. Revising paragraphs (c) and (d).

■ 5. Removing paragraphs (f) and (g).

The revisions read as follows:

§ 1.6052–2 Statements to be furnished employees with respect to wages paid in the form of group-term life insurance.

(a) *Requirement.* Every employer filing a return under section 6052(a) and § 1.6052–1, with respect to group-term life insurance on the life of an employee, shall furnish to the employee whose name is set forth in such return the tax return copy and the employee's copy of Form W–2. Each copy of Form W–2 must show the information required to be shown on the Form W–2 filed under § 1.6052–1. An employer may truncate an employee's social security number to appear in the form of an IRS truncated taxpayer identification number (TTIN) on copies of Form W–2 furnished to the employee. For provisions relating to the use of TTINs, see § 301.6109–4 of this chapter (Procedure and Administration Regulations). The rules in § 31.6051–1 of this chapter (Employment Taxes and Collection of Income Tax at Source Regulations) shall apply with respect to the means and time (including extensions thereof) for furnishing the employee's copy of Form W–2 required by this section to the employee and making corrections to such form.

* * * * *

(c) *Penalty.* For provisions relating to the penalty provided for failure to furnish a statement under this section, see section 6722 and the regulations thereunder.

(d) *Applicability date.* This section is applicable for statements required to be furnished under section 6052 after December 31, 2018.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Par. 3.** The authority citation for part 31 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 31.6051–3 also issued under 26 U.S.C. 6051.

* * * * *

■ **Par. 4.** Section 31.6051–1 is amended by:

■ 1. Revising paragraphs (a)(1)(i)(*b*) and (b)(1)(ii).

■ 2. Removing paragraph (d)(1)(ii)(C).

■ 3. Revising paragraphs (f), (h)(2), and (i).

■ 4. Removing paragraph (j)(8).

■ 5. Adding paragraph (k).

The revisions and addition read as follows:

§ 31.6051–1 Statements for employees.

(a) * * *

(1) * * *

(i) * * *

(*b*) The name, address, and social security number of the employee, which may be truncated to appear in the form of an IRS truncated taxpayer identification number (TTIN) on copies of Forms W–2 that are furnished to the employee (for provisions relating to the use of TTINs, see § 301.6109–4 of this chapter (Procedure and Administration Regulations)), if wages as defined in section 3121(a) have been paid or if the Form W–2 is required to be furnished to the employee,

* * * * *

(b) * * *

(1) * * *

(ii) The name, address, and social security number of the employee, which may be truncated to appear in the form of an IRS truncated taxpayer identification number (TTIN) on copies of Forms W–2 that are furnished to the employee (for provisions relating to the use of TTINs, see § 301.6109–4 of this

chapter (Procedure and Administration Regulations)),

* * * * *

(f) *Statements with respect to compensation, as defined in the Railroad Retirement Tax Act*—(1) *Notification of possible credit or refund.* With respect to compensation (as defined in section 3231(e)), every employer (as defined in section 3231(a)) who is required to deduct and withhold from an employee (as defined in section 3231(b)) a tax under section 3201, shall include on or with the statement required to be furnished to such employee under section 6051(a), a notice concerning the provisions of this title with respect to the allowance of a credit or refund of the tax on wages imposed by section 3101(b) and the tax on compensation imposed by section 3201 or 3211 which is treated as a tax on wages imposed by section 3101(b).

(2) *Information to be supplied to employees upon request.* With respect to compensation (as defined in section 3231 (e)), every employer (as defined in section 3231(a)) who is required to deduct and withhold tax under section 3201 from an employee (as defined in section 3231(b)) who has also received wages during such year subject to the tax imposed by section 3101(b), shall upon request of such employee furnish to him or her a written statement showing—

(i) The total amount of compensation with respect to which the tax imposed by section 3101(b) was deducted;

(ii) The total amount of employee tax under section 3201 deducted and withheld (increased by any adjustment in the calendar year for overcollection, or decreased by any adjustment in such year for undercollection, of such tax during any prior year); and

(iii) The proportion thereof (expressed either as a dollar amount, or a percentage of the total amount of compensation as defined in section 3231(e), or as a percentage of the total amount of employee tax under section 3201) withheld as tax under section 3201 for financing the cost of hospital insurance benefits.

(h) * * *

(2) *Time for furnishing statement.* The statement required by this paragraph (h) for a calendar year shall be furnished—

(i) In the case of an employee who is required to be furnished a Form W–2, Wage and Tax Statement, for the calendar year, within one week of (before or after) the date that the employee is furnished a timely Form W–2 for the calendar year (or, if a Form W–2 is not so furnished, on or before the date by which it is required to be furnished); and

(ii) In the case of an employee who is not required to be furnished a Form W–2 for the calendar year, on or before February 7 of the year succeeding the calendar year.

* * * * *

(i) *Cross references.* For provisions relating to the penalties provided for the willful furnishing of a false or fraudulent statement, or for the willful failure to furnish a statement, see § 31.6674–1 and section 7204. For additional provisions relating to the inclusion of identification numbers and account numbers in statements on Form W–2, see §§ 31.6109–1 and 31.6109–4. For the penalties applicable to information returns and payee statements, see sections 6721–6724 and the regulations thereunder.

* * * * *

(k) *Applicability date.* This section is applicable for statements required to be furnished under section 6051 after December 31, 2018.

■ **Par. 5.** Section 31.6051–2 is amended by revising paragraphs (a) and (c) and adding paragraph (d) to read as follows:

§ 31.6051–2 Information returns on Form W–3 and Social Security Administration copies of Forms W–2.

(a) *In general.* Every employer who is required to make a return of tax under § 31.6011(a)–1 (relating to returns under the Federal Insurance Contributions Act), § 31.6011(a)–4 (relating to returns of income tax withheld from wages), or § 31.6011(a)–5 (relating to monthly returns) for a calendar year or any period therein, shall file the Social Security Administration copy of each Form W–2 required under § 31.6051–1 to be furnished by the employer with respect to wages paid during the calendar year. An employer may not truncate an employee's social security number to appear in the form of an IRS truncated taxpayer identification number (TTIN) on copies of Form W–2 filed with the Social Security Administration. Each Form W–2 and the transmittal Form W–3 shall together constitute an information return to be filed with the Social Security Administration as indicated on the instructions to such forms. For the requirement to submit the information on Form W–2 on magnetic media, see section 6011(e) and § 301.6011–2 of this chapter (Procedure and Administration Regulations).

* * * * *

(c) *Cross references.* For provisions relating to the time for filing the information returns required by this section and to extensions of the time for filing, see sections 6071 and 6081 and the regulations thereunder. For the penalties applicable to information returns and payee statements, see sections 6721 through 6724 and the regulations thereunder.

(d) *Applicability date.* This section is applicable for statements required to be filed under section 6051 after December 31, 2018.

■ **Par. 6.** Section 31.6051–3 is amended by revising paragraphs (a)(1)(i), (b)(1), (e)(3), and (f) and removing paragraph (g) to read as follows:

§ 31.6051–3 Statements required in case of sick pay paid by third parties.

(a) * * *

(1) * * *

(i) The name and, if there is withholding from sick pay under section 3402(o) and the regulations thereunder, the social security account number of the payee (the payee's social security number may not be truncated to appear in the form of an IRS truncated taxpayer identification number (TTIN)),

(b) * * *

(1) All of the information required to be furnished under paragraph (a) of this section, but the employer may truncate the payee's social security number to appear in the form of an IRS truncated taxpayer identification number (TTIN) on copies of Forms W–2 that are furnished to the payee (for provisions relating to the use of TTINs, see § 301.6109–4 of this chapter (Procedure and Administration Regulations)),

* * * * *

(e) * * *

(3) The provisions of section 6109 (relating to identifying numbers) and the regulations thereunder shall be applicable to Form W–2 and to any payee of sick pay to whom a statement on Form W–2 is required by this section to be furnished. The employer must include the social security number of the payee on all copies of Forms W–2. The employer may truncate the payee's social security number to appear in the form of an IRS truncated taxpayer identification number (TTIN) on copies of Forms W–2 that are furnished to the payee. For provisions relating to the use of truncated taxpayer identification numbers (TTINs), see § 301.6109–4 of this chapter (Procedure and Administration Regulations).

(f) *Applicability date.* This section is applicable for statements required to be furnished under section 6051 after December 31, 2018.

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 7.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 8.** Section 301.6109–4 is amended by revising paragraphs (b)(2)(ii) and (iii), (b)(3), and (c) to read as follows:

§ 301.6109–4 IRS truncated taxpayer identification numbers.

* * * * *

(b) * * *

(2) * * *

(ii) A TTIN may not be used on a statement or document if a statute, regulation, other guidance published in the Internal Revenue Bulletin, form, or instructions, specifically requires use of a SSN, ITIN, ATIN, or EIN and does not specifically state that the taxpayer identifying number may be truncated. For example, a TTIN may not be used on a Form W–8ECI or Form W–8IMY because the forms and/or form instructions specifically prescribe use of an SSN, EIN, or ITIN for the U.S. taxpayer identification number.

(iii) A TTIN may not be used on any return, statement, or other document that is required to be filed with or furnished to the Internal Revenue Service or the Social Security Administration in the case of forms required to be filed with the Social Security Administration under the internal revenue laws.

* * * * *

(3) *Examples.* The provisions of this paragraph (b) are illustrated by the following examples:

(i) Example 1. Pursuant to section 6051(d) and § 31.6051–2(a) of this chapter, Employer files the Social Security Administration copy of Employee's Form W–2, Wage and Tax Statement, with the Social Security Administration. Employer may not truncate any identifying number on the Social Security Administration copy. Pursuant to section 6051(a) and § 31.6051–1(a)(1)(i) of this chapter, Employer furnishes copies of Form W–2 to Employee. There are no applicable statutes, regulations, other published guidance, forms, or instructions that prohibit use of a TTIN on Form W–2, and § 31.6051–1(a)(1)(i) specifically permits truncating employees' SSNs. Accordingly, Employer may truncate Employee's SSN to appear in the form of a TTIN on copies of Form W–2 furnished to Employee. Employer may not truncate its own EIN on copies of Form W–2 furnished to Employee.

(ii) Example 2. On April 5, year 1, Donor contributes a used car with a blue book value of $1100 to Charitable Organization. On April 20, year 1, Charitable Organization sends Donor copies B and C of the Form 1098–C as a contemporaneous written acknowledgement of the $1100 contribution as required by section 170(f)(12). In late-February, year 2, Charitable Organization prepares and files copy A of Form 1098–C with the IRS, reporting Donor's donation of a qualified vehicle in year 1. Charitable Organization may truncate Donor's SSN to appear in the form of a TTIN in the Donor's Identification Number box on copies B and C of the Form 1098–C because copies B and C of the Form 1098–C are documents required by the Internal Revenue Code and regulations to be furnished to another person; there are no applicable statutes, regulations, other published guidance, forms or instructions that prohibit the use of a TTIN on those copies; and there are no applicable statutes, regulations, other published guidance, forms, or instructions that specifically require use of an SSN or other identifying number on those copies. Charitable Organization may not truncate its own EIN on copies B and C of the Form 1098–C because a person cannot truncate its own taxpayer identifying number on any statement or other document the person furnishes to another person. Charitable Organization may not truncate any identifying number on copy A of the Form 1098–C because copy A is required to be filed with the IRS.

(c) *Applicability date.* This section is applicable to returns, statements and other documents required to be filed or furnished after December 31, 2018.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2017–19910 Filed 9–18–17; 11:15 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0208; FRL–9967–92–Region 7]

Approval of Implementation Plans; State of Iowa; Elements of the Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standard (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission, and an amended SIP submission from the State of Iowa for the 2010 Nitrogen Dioxide (NO_2) National Ambient Air Quality Standard (NAAQS). Infrastructure SIPs address the applicable requirements of Clean Air Act (CAA) section 110, which requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by the EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

In the ''Rules and Regulations'' section of this **Federal Register**, we are approving the state's SIP revisions as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Comments must be received on or before October 20, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2017–0208, to *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219 at (913) 551–7039, or by email at *hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: This document proposes to take direct final action on Iowa's infrastructure SIP submissions for the 2010 NO_2 NAAQS. We have published a direct final rule approving the State's SIP revision(s) in the ''Rules and Regulations'' section of this **Federal Register**, because we view this as a noncontroversial action and anticipate no relevant adverse comment. We have explained our reasons for this action in the preamble to the direct final rule. A detailed Technical Support Document (TSD) is included in this rulemaking docket to address the following: A description of Clean Air Act section 110(a)(1) and (2)

infrastructure SIPs; the applicable elements under sections 110(a)(1) and (2); EPA's approach to the review of infrastructure SIP submissions, and EPA's evaluation of how Iowa addressed the relevant elements of sections 110(a)(1) and (2). If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements.

Dated: September 8, 2017.

Cathy Stepp,

Acting Regional Administrator, Region 7.

[FR Doc. 2017–19936 Filed 9–19–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0477; FRL–9967–94–Region 7]

Approval of Nebraska Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide and Sulfur Dioxide and the 2012 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2010 Nitrogen Dioxide (NO_2) and Sulfur Dioxide (SO_2) National Ambient Air Quality Standards (NAAQS), and the 2012 Fine Particulate Matter ($PM_{2.5}$) NAAQS, which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA is proposing approval of the infrastructure submissions as meeting the applicable requirements of CAA section 110, for all three submittals. EPA is proposing to approve elements of the 2010 NO_2 and SO_2 infrastructure SIP submissions from the State of Nebraska received on February 7, 2013, and August 22, 2013, respectively. EPA is also proposing to approve the 2012 $PM_{2.5}$ infrastructure submittal received on February 22, 2016. In the ''Rules and Regulations'' section of this **Federal Register**, we are approving the state's SIP revisions as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Comments must be received by October 20, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2017–0477, to *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7391, or by email at *crable.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: This document proposes to take action on the 2010 NO_2 and SO_2 NAAQS and the 2012 $PM_{2.5}$ NAAQS Infrastructure SIP submittals. We have published a direct final rule approving the State's SIP revision (s) in the ''Rules and Regulations'' section of this **Federal Register**, because we view this as a noncontroversial action and anticipate no relevant adverse comment. We have explained our reasons for this action in the preamble to the direct final rule. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

List of Subjects in 40 CFR Part 52

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

Dated: September 8, 2017.

Cathy Stepp,

Acting Regional Administrator, Region 7.

[FR Doc. 2017–19934 Filed 9–19–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 170616568–7568–01]

RIN 0648–BG93

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Limits in Purse Seine Fisheries for 2017

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS seeks comments on this proposed rule issued under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act). The proposed rule

would establish a limit for calendar year 2017 on fishing effort by U.S. purse seine vessels in the U.S. exclusive economic zone (U.S. EEZ) and on the high seas between the latitudes of 20° N. and 20° S. in the area of application of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention). The limit is 1,828 fishing days. The rule also would make corrections to outdated cross references in existing regulatory text. This action is necessary to satisfy the obligations of the United States under the Convention, to which it is a Contracting Party.

DATES: Comments on the proposed rule must be submitted in writing by October 5, 2017.

ADDRESSES: You may submit comments on the proposed rule and the regulatory impact review (RIR) prepared for the proposed rule, identified by NOAA–NMFS–2017–0100, by either of the following methods:

• *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D= NOAA-NMFS-2017-0100,*

2. Click the ''Comment Now!'' icon, complete the required fields, and

3. Enter or attach your comments.

-OR-

• *Mail:* Submit written comments to Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, might not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name and address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

An initial regulatory flexibility analysis (IRFA) prepared under authority of the Regulatory Flexibility Act is included in the Classification section of the **SUPPLEMENTARY INFORMATION** section of this document.

Copies of the RIR and the programmatic environmental assessment (PEA) prepared for National Environmental Policy Act (NEPA) purposes are available at *www.regulations.gov* or may be obtained from Michael D. Tosatto, Regional Administrator, NMFS PIRO (see address above).

FOR FURTHER INFORMATION CONTACT: Emily Crigler, NMFS PIRO, 808–725–5036.

SUPPLEMENTARY INFORMATION:

Background on the Convention

The Convention is concerned with the conservation and management of fisheries for highly migratory species (HMS). The objective of the Convention is to ensure, through effective management, the long-term conservation and sustainable use of HMS in the WCPO. To accomplish this objective, the Convention established the Commission, which includes Members, Cooperating Non-members, and Participating Territories (collectively referred to here as ''members''). The United States of America is a Member. American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) are Participating Territories.

As a Contracting Party to the Convention and a Member of the Commission, the United States implements, as appropriate, conservation and management measures and other decisions adopted by the Commission. The WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the Commission. The WCPFC Implementation Act further provides that the Secretary of Commerce shall ensure consistency, to the extent practicable, of fishery management programs administered under the WCPFC Implementation Act and the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1801 *et seq.*), as well as other specific laws (see 16 U.S.C. 6905(b)). The Secretary of Commerce has delegated the authority to promulgate regulations under the WCPFC Implementation Act to NMFS. A map showing the boundaries of the area of application of the Convention (Convention Area), which comprises the majority of the WCPO, can be found on the WCPFC Web site at: *www.wcpfc.int/doc/convention-area-map.*

Proposed Action

This proposed rule would implement specific provisions of the Commission's Conservation and Management Measure (CMM) 2016–01, ''Conservation and Management Measure for Bigeye, Yellowfin, and Skipjack Tuna in the Western and Central Pacific Ocean,'' for purse seine fisheries. CMM 2016–01 was adopted by the Commission at its thirteenth regular annual session, in December 2016, went into effect February 2017, and is applicable for 2017. The rule would also make some administrative changes to correct cross references in existing regulatory text.

CMM 2016–01 is the latest in a series of CMMs devoted to the conservation and management of tropical tuna stocks, particularly stocks of bigeye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*), and skipjack tuna (*Katsuwonus pelamis*). CMM 2016–01 maintains the provisions of its predecessor, CMM 2015–01. These and the other CMMs are available at: *www.wcpfc.int/conservation-and-management-measures.*

The stated objective of CMM 2016–01 and several of its predecessor CMMs is to ensure that the stocks of bigeye tuna, yellowfin tuna, and skipjack tuna in the WCPO are, at a minimum, maintained at levels capable of producing their maximum sustainable yield as qualified by relevant environmental and economic factors. The CMM includes specific objectives for each of the three stocks: for each, the fishing mortality rate is to be reduced to or maintained at levels no greater than the fishing mortality rate associated with maximum sustainable yield. The proposed rule would implement the provisions for purse seine vessels that have not yet been implemented for 2017. Several provisions of CMM 2016–01 that are the same as in CMM 2015–01 have already been implemented by NMFS. NMFS is also adjusting the longline bigeye tuna catch limit as required under CMM 2016–01 through a separate rulemaking (82 FR 36341; August 4, 2017).

The elements of the proposed rule are detailed below. The administrative changes that would be made to correct outdated references in existing regulatory text are described at the end of this preamble.

Purse Seine Effort Limits

As in previous rules to implement similar Commission-mandated limits on purse seine fishing effort, this proposed rule would implement the applicable limits for the U.S. EEZ (paragraph 23 of

CMM 2016–01) and the high seas (paragraph 25 of CMM 2016–01) such that they apply to a single area, without regard to the boundary between the U.S. EEZ and the high seas. CMM 2016–01 has separate provisions for the high seas and the EEZ merely because they are subject to different management responsibility, and not because of different conservation and management needs or objectives for the two areas. Specifically, CMM 2016–01 calls for fishing effort in EEZs to be limited by coastal States, and fishing effort in areas of high seas to be limited by flag States.

In this case, the United States is both a coastal state and a flag state and will satisfy its dual responsibilities by implementing a rule that combines the two areas for the purpose of limiting purse seine fishing effort. NMFS considered both the action alternative that would combine the two areas and another alternative that would not (see the PEA and the RIR for comparisons of the two alternatives). Because both alternatives would accomplish the objective of controlling fishing effort by the WPCFC-adopted amount (*i.e.,* by U.S. purse seine vessels operating on the high seas and by purse seine vessels in areas under U.S. jurisdiction, collectively), and because the alternative of combining the two areas is expected to result in greater operational flexibility to affected purse seine vessels and lesser adverse economic impacts, as in previous years, NMFS is proposing to implement the alternative that would combine the two areas. This combined area (within the Convention Area between the latitudes of 20° N. and 20° S.) is referred to in U.S. regulations as the Effort Limit Area for Purse Seine, or ELAPS (see 50 CFR 300.211).

The 2017 purse seine fishing effort limit for the ELAPS is formulated as in previous rules to establish limits for the ELAPS: The applicable limit for the U.S. EEZ portion of the ELAPS, 558 fishing days per year, is combined with the applicable limit for the high seas portion of the ELAPS, 1,270 fishing days per year, resulting in a combined limit of 1,828 fishing days in the ELAPS for calendar year 2017. This ELAPS limit for 2017, 1,828 fishing days, is identical to the limits established for 2014, 2015, and 2016.

The meaning of ''fishing day'' is defined at 50 CFR 300.211; that is, any day in which a fishing vessel of the United States equipped with purse seine gear searches for fish, deploys a FAD, services a FAD, or sets a purse seine, with the exception of setting a purse seine solely for the purpose of testing or cleaning the gear and resulting in no catch.

As established in existing regulations for purse seine fishing effort limits in the ELAPS, NMFS will monitor the number of fishing days spent in the ELAPS using data submitted in logbooks and other available information. If and when NMFS determines that the limit of 1,828 fishing days is expected to be reached by a specific future date, it will publish a notice in the **Federal Register** announcing that the purse seine fishery in the ELAPS will be closed starting on a specific future date and will remain closed until the end of calendar year 2017. NMFS will publish that notice at least seven days in advance of the closure date (see 50 CFR 300.223(a)(2)). Starting on the announced closure date, and for the remainder of calendar year 2017, it will be prohibited for U.S. purse seine vessels to fish in the ELAPS (see CFR 300.223(a)(3)).

Related Rulemaking

On May 12, 2015, as NMFS was preparing to publish an interim rule to establish the ELAPS limit for 2015 (published May 21, 2015; 80 FR 29220), NMFS received a petition for rulemaking from Tri Marine Management Company, LLC. The company requested, first, that NOAA undertake an emergency rulemaking to implement the 2015 ELAPS limits for fishing days on the high seas, and second, that NOAA issue a rule exempting from that high seas limit any U.S.-flagged purse seine vessel that, pursuant to contract or declaration of intent, delivers or will deliver at least 50 percent of its catch to tuna processing facilities based in American Samoa.

On July 17, 2015, NMFS issued a notice of receipt of, and a request for comments on, the petition (80 FR 42464).

On October 23, 2015, after considering the petition and public comments on the petition, NMFS announced that it had denied the petition (80 FR 64382). The petition, the public comments on the petition, and NMFS' decision on the petition are available via the Federal e-Rulemaking Portal, at *www.regulations.gov* (search for Docket ID NOAA–NMFS–2015–0088).

Although NMFS denied the petition, it acknowledged that some of the issues raised in the petition warrant further examination. Accordingly, on the same date, October 23, 2015, and in the same **Federal Register** document, NMFS issued an advance notice of proposed rulemaking (ANPRM) related to the subject of the petition (80 FR 64382). NMFS continues to evaluate options that may mitigate adverse economic impacts of purse seine fishing restrictions on the U.S. territories, to the extent consistent with U.S. obligations under the Convention. Establishing a limit of 1,828 fishing days in the ELAPS for 2017 through this proposed rule, however, would not preclude NMFS from proposing at a later date such regulations for 2017 or subsequent years.

Administrative Changes to Existing Regulations

The regulations at 50 CFR 300.217(b) and 300.218(a)(2)(v) contain outdated cross references that would be corrected by this proposed rule. In Section 300.217, paragraph (b)(1) would be revised to provide a cross reference to Section 300.336(b)(2), not Section 300.14(b), and in Section 300.218(a)(2)(v), the cross reference would be to Section 300.341(a) instead of to Sections 300.17(a) and (b). Sections 300.14(b) and Sections 300.17(a) and (b) no longer exist and have been replaced through a new regulatory action implementing provisions of the High Seas Fishing Compliance Act (16 U.S.C. 5501 *et seq.*).

Classification

The Administrator, Pacific Islands Region, NMFS, has determined that this proposed rule is consistent with the WCPFC Implementation Act and other applicable laws, subject to further consideration after public comment.

Coastal Zone Management Act (CZMA)

NMFS determined that this action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), Guam, and the State of Hawaii. Determinations to Hawaii and each of the Territories were submitted on June 26, 2017, for review by the responsible state and territorial agencies under section 307 of the CZMA.

Executive Order 12866

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

Regulatory Flexibility Act (RFA)

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the RFA. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** section of the preamble and in other sections of this

SUPPLEMENTARY INFORMATION section of the preamble. The analysis follows:

Estimated Number of Small Entities Affected

For Regulatory Flexibility Act purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 114111) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

The proposed rule would apply to owners and operators of U.S. purse seine vessels used for fishing for HMS in the Convention Area.

There would be no disproportionate economic impacts between small and large entities operating vessels resulting from this rule. Furthermore, there would be no disproportionate economic impacts based on vessel size, gear, or home port.

The proposed rule would apply to owners and operators of U.S. commercial fishing vessels that use purse seine gear to fish for HMS in the Convention Area. The estimated number of affected fishing vessels is 40 purse seine vessels (based on the maximum number of purse seine vessels licenses available under the South Pacific Tuna Treaty excluding joint-venture licenses, of which there are five available under the SPTT, but no joint-venture licenses have ever been applied for or issued).

Based on (limited) financial information about the affected fishing fleets, and using individual vessels as proxies for individual businesses, NMFS believes that over half of the vessels in the purse seine fleet are small entities as defined by the RFA; that is, they are independently owned and operated and not dominant in their fields of operation, and have annual receipts of no more than $11.0 million. Within the purse seine fleet, analysis of average revenue, by vessel, for the three years of 2014–2016 reveals that average fleet revenue was $10,201,962; 22 participating vessels qualified as small entities with their average of the most recent three years of vessel revenue for which data is available of less than $11 million.

Recordkeeping, Reporting, and Other Compliance Requirements

The reporting, recordkeeping and other compliance requirements of this proposed rule are described earlier in the preamble. The classes of small entities subject to the requirements and the types of professional skills necessary to fulfill the requirements are as follows:

The proposed action would establish fishing effort limits for purse seine vessels fishing in the U.S. EEZ and the high seas within the Convention Area between 20 N and 20 S: These requirements would not impose any new reporting or recordkeeping requirements (within the meaning of the Paperwork Reduction Act). Fulfillment of this requirement is not expected to require any professional skills that the vessel owners and operators do not already possess. The costs of complying with the proposed requirements are described below to the extent possible:

If and when the purse seine fishery is closed to fishing in the ELAPS as a result of the annual fishing effort limit being reached in 2017, owners and operators of U.S. purse seine vessels would have to cease fishing in that area for the remainder of the calendar year. Closure of the fishery in the ELAPS could thereby cause foregone fishing opportunities and associated economic losses if the ELAPS contains preferred fishing grounds during such a closure. The likelihood of the fishery being closed in the ELAPS in 2017 under the proposed rule (1,828 days) is greater than under the no-action alternative (no limit). Purse seine fishing was closed in the ELAPS in 2015 and 2016 after NMFS projected the fishing day limit would be reached in the ELAPS in those years. To determine the likelihood of the limit being reached in 2017, fishing effort in the ELAPS was considered for the most recent 10 years, but omitting 2010–2012, during which two important areas of high seas were closed to fishing. In order to make the data comparable among years, historical fishing effort as well as the proposed ELAPS limit are expressed here in terms of fishing days per year per active vessel, on average. The proposed limit is 1,828 days, and assuming 40 active vessels in 2017, this is equivalent to 45.7 fishing days per vessel per year on average (''proposed threshold''). Among the 10 years 2005–2009 and 2013–2016, fishing effort in the ELAPS ranged from 31 to 65 fishing days per year, exceeding the proposed threshold in 8 of the 10 years, or 80 percent of the time. Based on this history, the likelihood of the proposed limit being reached in 2017 is substantial—roughly 80 percent. However, current fishing patterns for 2017 as of June 2017 suggest that the rate of fishing in the ELAPS in 2017 (~220 days) is much lower than the historical average with average fishing days per vessel at 6.5 fishing days from January-June 2017. Assuming fishing conditions in the latter half of the year mimic the first half of 2017, NMFS believes that it is unlikely that the ELAPS limit would be reached in 2017. If fishing conditions in the latter half of the year were to increase to the highest rate observed in 2015 (21 fishing days/calendar day), there would be a high likelihood that the ELAPS limit would be reached prior to the end of 2017. The highest rate observed to date in 2017 has been 8.5 fishing days/calendar day, and if the highest rate in 2017 were to occur through end of 2017, the ELAPS limit would be expected to be reached by December 22, 2017.

Other factors that could influence the likelihood of the proposed limit being reached are the status of vessels with respect to whether they have fishery endorsements and are allowed to fish in the U.S. EEZ, El Nino-Southern Oscillation (ENSO) conditions, and fishing day opportunities through the South Pacific Tuna Treaty and fishing day opportunities in the Eastern Pacific Ocean. Regarding the first factor, if the proportion of the fleet that has fishery endorsements changes from the proportion during the baseline period, the likelihood of the ELAPs limit being reached would change accordingly (if the proportion increases, the likelihood would increase). However, because fishing in the U.S. EEZ makes up a relatively small portion of all fishing in the ELAPS, this is a relatively minor factor, and is not examined any further here. Regarding the second factor, the eastern areas of the WCPO have tended to be comparatively more attractive to the U.S. purse seine fleet during El Nino events (versus other times), when warm surface water spreads from the western Pacific to the eastern Pacific and large, valuable yellowfin become more vulnerable to purse seine fishing. Consequently, the ELAPS, much of which is situated in the eastern range of the fleet's fishing grounds, is likely to be more important fishing grounds to the fleet during El Nino events (as compared to neutral or La Nina events). According to the National Weather Service ((see *www.cpc.ncep.noaa.gov/products/analysis_monitoring/enso_advisory/index.shtml*), as of June 2017, conditions were ENSO-neutral and the forecast was that ENSO-neutral conditions are favored through the second half of 2017. The 35–50 percent chance of an El Nino developing in the fall of 2017 suggests a slight chance that fishing in the ELAPS could become more important in the latter half of the year, but would only slightly increase the likelihood (than indicated by fishing

effort alone) of the proposed 2017 ELAPS limit being reached. Regarding the third factor, effective January 1, 2017, a new treaty is in place between U.S. purse seine vessel owners and the members of the Pacific Islands Forum Fisheries Agency (FFA) that allows the U.S. fleet the opportunity to purchase fishing days for use in the EEZs of the Parties to the Nauru Agreement (PNA, a subset of eight FFA members in whose waters most WCPO tropical purse seine fishing occurs), and in the EEZs of the other FFA members during the period of the arrangement, which is through 2022). Under the new treaty, vessels notify the U.S. government which in turn informs FFA of the number of treaty days each vessel or group of vessels desires to purchase. These days can be traded among vessels participating in the treaty, and vessels may purchase additional bilateral days during the agreement period if additional days are desired. As each vessel decides on the number of fishing days it wishes to purchase, and vessels can trade and purchase additional bilateral days, it appears that there is a relatively small likelihood of all of the EEZs of the FFA members becoming unavailable to the U.S. fleet before the end of 2017. It is possible that vessels that purchase more treaty days may rely less on the use of ELAPS days whereas vessels that purchase fewer treaty days may rely more heavily on the use of ELAPS days. Regarding the fourth factor, vessels may also choose to fish outside the Convention Area in the eastern Pacific Ocean (EPO). Historically, the fleet fished very little in the EPO, but the numbers of U.S. purse seine vessels fishing in the EPO has been steadily increasing since 2014. Vessels fishing in the EPO are required to be on the IATTC Vessel Register, and can either apply to be on the active purse seine capacity list where they can fish in the EPO during the calendar year or request to use one fishing trip in the EPO that an SPTT-licensed vessel is allowed to make, not to exceed 90 days in length, and there is an annual limit of 32 trips for the entire SPTT-licensed fleet (50 CFR 300.22(b)(1)). If vessels choose to fish in the EPO, this could influence the number of ELAPS days they use, particularly if they opt to fish in the overlap area between the WCPFC and IATTC where their effort would count against the ELAPS limit or fish outside of the area of the overlap where their effort would not count against the ELAPS limit. As of June 2017, 17 U.S. purse seine vessels with WCPFC Area Endorsements are also on the IATTC active purse seine register for 2017.

In summary, based on the available information and particularly the current fishing patterns in 2017, there is a small likelihood that the proposed ELAPS limit would be reached before the end of 2017.

The costs associated with a closure of the ELAPS would depend greatly on the length of the closure as well as whether the EEZs of other nations, particularly the typically most favored fishing grounds, the EEZs of the PNA, or the Eastern Pacific were available for fishing. NMFS conducted a study on the economic impacts of the 2015 ELAPS closure, which lasted from June 15–December 31, 2015, and found that the 2015 ELAPS closure had an adverse impact on profitability across the combined sectors of vessels, canneries and vessel support facilities in American Samoa. During the 2015 and 2016 ELAPS closures, the EEZs of the FFA members remained available for fishing as well as fishing in the Eastern Pacific. As indicated above, there is relatively small likelihood of the EEZs of the FFA members being unavailable for fishing before the end of 2017. Assuming the EEZs of the FFA and Eastern Pacific remain available as fishing grounds, the impacts of a closure of the ELAPS would depend greatly on its length. The closure of any fishing grounds for any amount of time would be expected to bring impacts to affected entities (*e.g.,* because the open area might, during the closed period, be less optimal than the closed area, and vessels might use more fuel and spend more time having to travel to open areas). If the ELAPS is a relatively preferred fishing ground during the closure (*e.g.,* because of oceanic conditions or other factors), then the losses would be accordingly greater than if the ELAPS is not preferred relative to other fishing grounds. If the EEZs of the PNA and other FFA members are not available during an ELAPS closure, the costs of an ELAPS closure could be substantial. In the event the entire WCPO is closed to fishing during an ELAPS closure, possible next-best opportunities include fishing outside the Convention Area in the eastern Pacific Ocean (EPO), and not fishing. As discussed above, an increasing number of vessels have started fishing in the EPO, and almost half the fleet is on the IATTC active vessel register list. Vessels that are not on the IATTC active purse seine vessel register list can request to use the one trip option to fish in the EPO. The alternative of not fishing at all during an ELAPS closure would mean a loss of any revenues from fishing. However, many of the vessels' variable operating costs would be avoided in that case, and for some vessels the time might be used for productive activities like vessel and equipment maintenance. U.S. purse seine vessel operating costs are not known, so estimates of economic losses cannot be made. But information on revenues per day can give an indication of the magnitude of possible economic costs to affected entities. Average annual gross revenues for the 40 affected purse seine vessels during 2014–2016 were approximately $10 million per vessel, on average. This equates to about $28,000 per calendar day, on average.

The proposed 2017 ELAPS limit could affect the temporal distribution of fishing effort in the U.S. purse seine fishery. Since the limits would apply fleet-wide; that is, they would not be allocated to individual vessels, vessel operators might have an incentive to fish harder in the ELAPS earlier in a given year than they otherwise would. Such a ''race-to-fish'' effect might also be expected in the time period between when a closure of the fishery is announced and when it is actually closed, which would be at least seven calendar days. To the extent such temporal shifts occur, they could affect the seasonal timing of fish catches and deliveries to canneries, and conceivably affect prices. However, because most of the traditional fishing grounds are outside the ELAPS, the intensity of any race-to-fish in the ELAPS is likely to be low if it occurs at all. The small likelihood of the EEZs of the FFA being closed to fishing before the end of 2017, as discussed above, might also influence the behavior of fishermen earlier in the year, but it is not clear how it would influence fishing in the ELAPS. If fishermen are more concerned about the FFA members' EEZs closing at some point, they might fish harder in those waters earlier in the year; if, on the other hand, they are more concerned about the ELAPS closing, they might fish harder in the ELAPS earlier in the year. In any case, the timing of cannery deliveries by the U.S. fleet alone (as it might be affected by a race to fish in the ELAPS) is unlikely to have an appreciable impact on prices, since many canneries buy from the fleets of multiple nations at any given time. A race to fish could bring costs to affected entities if it causes vessel operators to forego vessel maintenance in favor of fishing or to fish in weather or ocean conditions that they otherwise would not. This could bring costs in terms of the health and safety of the crew as well as the economic performance of the vessel.

In summary, there is a small likelihood that the ELAPS limit will be reached before the end of 2017, and if it is reached before the end of 2017, the impacts to affected entities could be minor or substantial, depending on such factors as the length of the closure, whether the EEZs of the FFA members and Eastern Pacific remain available for fishing, and oceanic conditions.

There would be no disproportionate economic impacts between small and large entities operating vessels as a result of this proposed rule. Furthermore, there would be no disproportionate economic impacts based on vessel size, gear, or home-port.

Duplicating, Overlapping, and Conflicting Federal Regulations

NMFS has not identified any Federal regulations that duplicate, overlap with, or conflict with the proposed regulations.

Alternatives to the Proposed Rule

NMFS has not been able to identify any alternatives that would accomplish the objectives of the Act and minimize any significant economic impact of the proposed rule on small entities. The alternative of taking no action at all was rejected because it would fail to accomplish the objectives of the Act. As a Contracting Party to the Convention, the United States is required to implement the decisions of WCPFC. Consequently, NMFS has limited discretion as to how to implement those decisions.

In previous rulemakings to establish or revise U.S. purse seine fishing effort limits in the ELAPS in accordance with WCPFC decisions, NMFS considered a number of alternatives. The alternatives had to do, firstly, with the time scales for the limits (*e.g.,* single-year versus multiple-year limits); secondly, with whether separate limits would be established in the U.S. EEZ and high seas portions of the ELAPS or they would be combined; thirdly, with whether the limit(s) would be allocated to individual vessels; and fourthly, with the magnitude of the limit(s).

The first category, time scales, is not relevant here because the objective is to implement the required fishing effort limit for 2017 only. The second category, whether to break up the ELAPS limit into separate limits for the U.S. EEZ and the high seas portions of the ELAPS, would provide less operational flexibility for affected purse seine vessels, and thus be more constraining and costly than the proposed limit. It is not preferred for that reason. The third category, allocating the limit among individual vessels, would likely alleviate any adverse impacts of a race-to-fish that might occur as a result of establishing the competitive fishing effort limits as in the proposed rule. As described in the previous paragraphs, those potential impacts include lower prices for landed product and risks to performance and safety stemming from fishing during sub-optimal times. Those impacts, however, are expected to be minor, so this alternative is not preferred.

Regarding the fourth category, the magnitude of the limits, NMFS could, as it did for the 2013 rule that established the 2013 and existing 2014 ELAPS limit, consider both smaller and larger limits for the ELAPS. Smaller limits, being more constraining and costly to affected fishing businesses, are not considered further here. CMM 2013–01 includes an explicit limit for the United States for the high seas, 1,270 fishing days per year, so NMFS is not afforded any discretion there. Like its predecessor, CMM 2012–01, CMM 2013–01 is less explicit with respect to the U.S. EEZ, so NMFS could consider a more expansive limit for that aspect of the total ELAPS limit. For example, in the 2013 rule, NMFS considered an alternative that would be based in part on the fleet's greatest annual level of fishing effort in the U.S. EEZ (on an average per-vessel basis, then expanded to a 40-vessel equivalent) during the 1997–2010 time period. Using that approach here, the U.S. EEZ aspect of the limit would be 1,655 fishing days, and when combined with the high seas aspect of 1,270 fishing days, the total ELAPS limit would be 2,925 fishing days. Because this alternative limit is greater and thus less constraining than the proposed limit of 1,828 fishing days, the costs of complying with this alternative would be less than or equal to those of the proposed limit. This alternative is not preferred because it would depart from the effort limits established for the period 2009–2016. The approach used in formulating the limit proposed in this rule is consistent with the precedent set by the 2009 rule and the 2013 rule, and affected entities have been exposed to the impacts of those limits for the past five years. The alternative of taking no action at all, which would not set any fishing day limits, is not preferred because it would fail to accomplish the objective of the WCPFC Implementation Act or satisfy the international obligations of the United States as a Contracting Party to the Convention.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: September 14, 2017.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

■ 1. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 *et seq.*

■ 2. In § 300.217, revise paragraph (b)(1) to read as follows:

§ 300.217 Vessel identification.

* * * * *

(b) *Marking.* (1) Vessels shall be marked in accordance with the identification requirements of § 300.336(b)(2), and if an IRCS has not been assigned to the vessel, then the Federal, State, or other documentation number used in lieu of the IRCS must be preceded by the characters ''USA'' and a hyphen (that is, ''USA-'').

■ 3. In § 300.218, revise paragraph (a)(2)(v) to read as follows:

§ 300.218 Reporting and recordkeeping requirements.

* * * * *

(v) *High seas fisheries.* Fishing activities subject to the reporting requirements of § 300.341 must be maintained and reported in the manner specified in § 300.341(a).

■ 4. In § 300.223, revise paragraph (a)(1) to read as follows:

§ 300.223 Purse seine fishing restrictions.

* * * * *

(a) * * *

(1) For calendar year 2017 there is a limit of 1,828 fishing days.

[FR Doc. 2017–19981 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 181
Wednesday, September 20, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection: Public Lands Corps Participant Tracking Sheet

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on a new information collection request through the *Public Lands Corps Participant Tracking Sheet.*

DATES: Comments must be received in writing on or before November 20, 2017 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Volunteers & Service Program Manager, USDA Forest Service, Attn: Recreation, Heritage and Volunteer Resources, 1400 Independence Ave. SW., Mailstop Code: 1125, Washington, DC 20250–1125. Comments also may be submitted via facsimile to 703–605–5131 or by email to: *21CSC@fs.fed.us.*

The public may inspect comments received at the Office of the Director, Recreation, Heritage and Volunteer Resources, 5th Floor South West, Sidney R. Yates Federal Building, 201 14th Street SW., Washington, DC, during normal business hours. Visitors are encouraged to call ahead to 202–205–0560 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Merlene Mazyck, Volunteers & Service, 202–205–0560. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title: Public Lands Corps Participant Tracking Sheet.

OMB Number: 0596–NEW.

Type of Request: New Information Collection Request.

Abstract: The Public Lands Corps is a work and education program involving the nation's land management agencies, conservation and service corps, and environmental organizations that contribute to the rehabilitation, restoration, and repair of public lands resources and infrastructures. Public Lands Corps projects provide opportunities for community and national public service, work experience and training for young people who are unemployed or underemployed persons, students, recent graduates, and others with an interest in natural and cultural resources careers. The law authorizing this program includes 16 U.S.C. 1721–1726, Chapter 37—Public Lands Corps and Resource Assistants Program (Public Lands Corps Healthy Forests Restoration Act of 2005 [Pub. L. 109–154] as amended in 1993, hereafter referred to as ''the Act.'')

The Agency has developed a tracking sheet (FS–1800–0026, *Public Lands Corps Participant Tracking Sheet*) to support the effective management of the Public Lands Corps Program. The utilization of the Public Lands Corps Tracking Sheet will assist the Agency in ensuring qualified program participants lawfully receive a certificate of non-competitive hiring eligibility, which can be used to apply to Forest Service merit announcements on USAJobs. All partners managing Public Lands Corps projects are required to submit a Public Lands Corps Participant Tracking Sheet to Merlene Mazyck by electronic forms through secure email to *21CSC@fs.fed.us.* This email address is monitored daily. In the future, it is intended that partners will be required to electronically submit tracking sheets through a Federal Land Management agency web-based project management system. Public Lands Corps submission is requested on a quarterly basis unless otherwise defined.

The use of the Public Lands Corps Participant Tracking Sheet ensures uniform collection of information regarding tracking and monitoring participant engagement in order to determine adherence to requirements for non-competitive hiring eligibility as defined in the Act. The data—such as participant demographic information, and project information—collected will allow the Forest Service, and other Federal Land Management Agencies, to monitor the effectiveness of Agency efforts to meet the intent of the Act, and engage under-represented populations in natural and cultural resource conservation, development and scientific research work, and education on public lands. This information collection request will ensure that partners maintain a record of all Public Lands Corps agreements established with Federal Land Management Agencies, participant demographics and education, project information and work hours, project locations and dates, and status of noncompetitive eligibility certification.

Type of Respondents: Non-profit Organizations and Non-Federal Governmental entities.

Estimated Annual Number of Respondents: 350.

Estimated Annual Number of Responses per Respondent: 4; quarterly submission.

Estimated Total Annual Responses: 1,400.

Estimated Time per Response: 6 hours per response.

Estimated Total Annual Burden on Respondents: 8,400 hours.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection methods or forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission of the information collection request to Office of Management and Budget.

Dated: September 5, 2017.

Glenn Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017–20001 Filed 9–19–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, Department of Agriculture.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program of the Agency's use of Supervised Bank Accounts (SBA).

DATES: Comments on this Notice must be received by November 20, 2017 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Joanna Rogers, Financial Loan Analyst, Multi-Family Housing Portfolio Management Division, STOP 0782-Room 1263S, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–0782. Telephone: (202) 720–1609.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1902–A, Supervised Bank Accounts.

OMB Number: 0575–0158.

Expiration Date of Approval: January 31, 2018.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The Agency extends financial assistance to applicants that do not qualify for loans under commercial rates and terms.

The Agency use SBAs as a mechanism to (1) ensure correct disbursement and expenditure of all funds designated for a project; (2) help a borrower properly manage its financial affairs; (3) ensure that the Government's security is protected adequately from fraud, waste and abuse.

SBAs are mandatory for Multi-Family Housing (MFH) reserve accounts. The MFH funds must be kept in the SBA for the full term of a loan. Any funds withdrawn for disbursement for an authorized purpose require a countersignature from an Agency official.

This regulation prescribes the policies and responsibilities for the use of SBAs. In carrying out the mission as a supervised credit Agency, this regulation authorizes the use of supervised accounts for the disbursement of funds. The use may be necessitated to disburse Government funds consistent with the various stages of any development (construction) work actually achieved. On limited occasions, a supervised account is used to provide temporary credit counseling and oversight of those being assisted who demonstrate an inability to handle their financial affairs responsibly. Another use is for depositing MFH reserve account funds in a manner requiring Agency co-signature for withdrawals. MFH reserve account funds are held in a reserve account for the future capital improvement needs for apartment properties. Supervised accounts are established to ensure Government security is adequately protected against fraud, waste and abuse.

The legislative authority for requiring the use of supervised accounts is contained in section 510 of the Housing Act of 1949, as amended (42 U.S.C. 1480). These provisions authorize the Secretary of Agriculture to make such rules and regulations as deemed necessary to carry out the responsibilities and duties the Government is charged with administering.

Estimate of Burden: Public reporting burden for this information collection is estimated to average .44 hours per response.

Respondents: Small Business.

Estimated Average Number of Respondents: 15,000.

Estimated Total Annual Responses: 60,292.

Estimated Total Number of Man Hours: 26,169.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, at (202) 692–0040.

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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.

All responses to this Notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: September 11, 2017.

Richard A. Davis,

Acting Administrator, Rural Housing Service.

[FR Doc. 2017–19942 Filed 9–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of the Census

National Advisory Committee

AGENCY: U.S. Census Bureau, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Census Bureau is giving notice of a meeting of the National Advisory Committee on Racial, Ethnic and Other Populations (NAC). The NAC addresses policy, research, and technical issues relating to all Census Bureau programs and activities. These activities include the production and dissemination of detailed demographic and economic statistics across all program areas, including the Decennial Census programs. The NAC will meet in a plenary session on November 2–3, 2017. Last minute changes to the schedule are possible, which could prevent us from giving advance public notice of schedule adjustments. Planned topics of discussion include the following items:

- 2020 Census Program updates
- 2020 Census Operations: Integrated Communications Plan
- Undercount of Young Children Working Group update
- Integrated Partnership and Communications Working Group update

Please visit the Census Advisory Committees Web site for the most current meeting agenda at: *http://www.census.gov/about/cac.html.* The meeting will be available via webcast at: *http://www.census.gov/newsroom/census-live.html.*

DATES: November 2–3, 2017. On Thursday, November 2, the meeting will begin at approximately 8:30 a.m. and end at approximately 5:00 p.m. On Friday, November 3, the meeting will

begin at approximately 8:30 a.m. and end at approximately 2:00 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau Auditorium, 4600 Silver Hill Road, Suitland, Maryland 20746.

FOR FURTHER INFORMATION CONTACT: Tara Dunlop Jackson, Branch Chief for Advisory Committees, Customer Liaison and Marketing Services Office, at *tara.dunlop.jackson@census.gov,* Department of Commerce, U.S. Census Bureau, Room 8H177, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–5222. For TTY callers, please use the Federal Relay Service 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The NAC was established in March 2012 and operates in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, Section 10). The NAC members are appointed by the Director, U.S. Census Bureau, and consider topics such as hard to reach populations, race and ethnicity, language, aging populations, American Indian and Alaska Native tribal considerations, new immigrant populations, populations affected by natural disasters, highly mobile and migrant populations, complex households, rural populations, and population segments with limited access to technology. The Committee also advises on data privacy and confidentiality, among other issues.

All meetings are open to the public. A brief period will be set aside at the meeting for public comment on Friday, November 3. However, individuals with extensive questions or statements must submit them in writing to: *census.national.advisory.committee@census.gov* (subject line ''November 2017 NAC Meeting Public Comment''), or by letter submission to Kimberly L. Leonard, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 8H179, 4600 Silver Hill Road, Washington, DC 20233.

If you plan to attend the meeting, please register by Monday, October 30, 2017. You may access the online registration from the following link: *https://www.regonline.com/nac_meeting_nov2017.* Seating is available to the public on a first-come, first-served basis.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Committee Liaison Officer as soon as known, and preferably two weeks prior to the meeting.

Please call 301–763–9906 upon arrival at the Census Bureau on the day of the meeting. A photo ID must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Dated: September 14, 2017.

Ron S. Jarmin,

Associate Director for Economic Programs, performing the non-exclusive functions and duties of the Director, Bureau of the Census.

[FR Doc. 2017–20061 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Pilot of USPS Postal Carriers as Census Enumerators During the 2018 End-to-End Census Test

AGENCY: U.S. Census Bureau, 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: To ensure consideration, written comments must be submitted on or before November 20, 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(s) and instructions should be directed to Robin A. Pennington, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233 (or via the internet at *robin.a.pennington@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau proposes a proof of concept study on the use of United States Postal Service (USPS) Postal Carriers as Census Bureau enumerators as part of the 2018 End-to-End Census Test. The possibility of formally using Postal Carriers to conduct enumeration as part of Decennial Census operations has been proposed or suggested several times in recent years by Members of Congress, as well as other advisory and oversight bodies, in response to (1) the rising operational costs of both agencies, and (2) the need for familiarity with local addresses. The suggestions often note that the USPS maintains a permanent, well trained, and experienced labor force that possesses significant public trust and detailed knowledge of the addressing and residential patterns in communities they serve.

The rationale for this study is to test and observe the feasibility of the use of Postal Carriers as enumerators in the context of an existing Census Test, and, thereby, enable the Census Bureau and USPS to better respond to stakeholder inquiries about the feasibility of such activities. The potential long-term advantages to the Census Bureau include: (1) Leveraging local USPS knowledge about households to pinpoint the best time for an interview, (2) increasing the pool of enumerators without hiring new temporary staff, and (3) providing a more flexible landscape for how and when Nonresponse Followup (NRFU) interviews occur during the enumeration phase of a census.

The Census Bureau plans to conduct a pilot in two ZIP Codes outside of—but adjacent to—the 2018 End-to-End Census Test site location in Providence County, R.I. The pilot will involve approximately 40 Postal Carriers operating out of two ZIP Codes, 02760 located in North Attleboro, MA, and 02888 located in Warwick, RI.

The proposed evaluation and deliverables are:

(1) The numbers of resolved enumeration cases will be documented to determine whether Postal Carriers were able to successfully conduct assigned NRFU activities. Documentation will identify and describe challenges and opportunities for future collaborative participation in this operation.

(2) A report that details the development of baseline metrics to describe costs and benefits of a future collaborative operation. This study will determine the information needed to assess cost differences/savings to recruiting and staff-onboarding operations by using existing USPS employees, and the value added in terms of efficiency and quality of NRFU activities, measured by numbers of visits, of using Postal Carriers with local knowledge.

(3) Results of focus group debriefings held with the Postal Carriers, their managers, and the public after the 2018 End-to-End Census Test enumeration phase is complete to describe and

characterize the impacts of this collaboration on agency operations and the public trust.

Documented operational Lessons Learned from the entirety of the project and recommendations for next steps will accompany the report. The outcome of this pilot study will provide the Census Bureau and the USPS with baseline descriptive and qualitative information that can be used to inform future field-based collaborations.

II. Method of Collection

Census Bureau staff will train Postal Carriers to successfully conduct enumeration to complete the activity. Postal Carriers will be sworn to uphold the same confidentiality as Census Bureau employees. They will perform enumeration functions using the same procedures and automation as other enumerators during the hours of 5 p.m.–8 p.m. on weekdays, variable weekend hours, and both inside and outside the geographic constraints of their assigned routes.

III. Data

OMB Control Number: 0607–XXXX.

Form Number(s): DH–16(LN), DH–16(LN)(E/S).

Type of Review: Regular submission.

Affected Public: 31,479.

Estimated Number of Respondents: 24,889.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 4,148.

Estimated Total Annual Cost to Public: $199,080.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. 23, 141, 193.

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.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–20036 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Survey of Housing Starts, Sales, and Completions

AGENCY: U.S. Census Bureau, 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, Public Law 104–13.

DATES: To ensure consideration, written comments must be submitted on or before November 20, 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(s) and instructions should be directed to Erica Filipek, U.S. Census Bureau, EID, CENHQ Room 7K057, 4600 Silver Hill Road, Washington, DC 20233, telephone (301)763–5161 (or via the Internet at *Erica.Mary.Filipek@census.gov*).

SUPPLEMENTARY INFORMATION

I. Abstract

The U.S. Census Bureau plans to request a three-year extension of the current Office of Management and Budget (OMB) clearance of the Survey of Housing Starts, Sales and Completions, also known as the Survey of Construction (SOC). We also plan revisions to the current collection. The SOC collects monthly data on new residential construction from a sample of owners or builders. The Census Bureau uses the Computer-Assisted Personal Interviewing (CAPI) electronic questionnaires SOC–QI/SF.1 and SOC–QI/MF.1 to collect data on start and completion dates of construction, physical characteristics of the structure (floor area, number of bathrooms, type of heating system, etc.), and if applicable, date of sale, sales price, and type of financing. The SOC provides widely used measures of construction activity, including the economic indicators Housing Starts and Housing Completions, which are from the New Residential Construction series, and New Residential Sales.

After working with the survey sponsor and key data users, the Census Bureau has decided to add one new data item to the single-family questionnaire regarding ceiling height.

With respect to survey burden, the Census Bureau samples about 1,620 new buildings each month (19,440 per year). Census Bureau staff inquire about the progress of each building multiple times until it is completed (and a sales contract is signed, if it is a single-family house that is built for sale). For single-family buildings, there are an average of 8.11 interviews and for multifamily buildings, an average of 7.0 interviews. The total number of interviews conducted each year for single-family buildings is about 102,186 and for multifamily buildings is about 47,880. Each interview takes 5 minutes on average. Therefore, the total annual burden is 12,506 hours.

II. Method of Collection

The Census Bureau uses its field representatives to collect the data through CAPI.

III. Data

OMB Control Number: 0607–0110.

Form Number(s): SOC–QI/SF.1 and SOC–QI/MF.1.

Type of Review: Regular submission.

Affected Public: Individuals or households, business or other for-profit.

Estimated Number of Respondents: 19,440.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 12,506.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. 131 and 182.

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.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–20037 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–834–810]

Titanium Sponge From Kazakhstan: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable. September 13, 2017.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian at (202) 482–6412 or Ariela Garvett at (202) 482–3609, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On August 24, 2017, the U.S. Department of Commerce (the Department) received a countervailing duty (CVD) Petition concerning imports of titanium sponge from Kazakhstan, filed in proper form on behalf of Titanium Metals Corporation (the petitioner). The CVD Petition was accompanied by antidumping duty (AD) petitions concerning imports of titanium sponge from Japan and Kazakhstan.[1] The petitioner is a domestic producer of titanium sponge.[2]

On August 30, 2017, the Department requested supplemental information pertaining to certain areas of the Petition.[3] The petitioner filed responses to these requests on September 1, 2017.[4] The petitioner filed revised scope language on September 11, 2017.[5]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of Kazakhstan (GOK) is providing countervailable subsidies, within the meaning of section 771(5) of the Act, to imports of titanium sponge from Kazakhstan, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing titanium sponge in the United States. Also, consistent with section 702(b)(1) of the Act, for those alleged programs on which we are initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed this Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the CVD investigation that the petitioner is requesting.[6]

Period of Investigation

Because the Petition was filed on August 24, 2017, the period of investigation (POI) is January 1, 2016, through December 31, 2016.[7]

Scope of the Investigation

The product covered by this investigation is titanium sponge from Kazakhstan. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation,'' in the Appendix to this notice.

Comments on Scope of the Investigation

During our review of the Petition, the Department issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the product for which the domestic industry is seeking relief.[8]

As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[9] The Department will consider all comments received from interested parties and, if necessary, will consult with the interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[10] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, October 3, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, October 13, 2017, which is 10 calendar days from the initial comments deadline.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[11] An electronically

[1] *See* Letter to the Secretary of Commerce from the petitioner re: ''Titanium Sponge from Japan and Kazakhstan: Petition for the Imposition of Antidumping and Countervailing Duties'' (August 24, 2017) (the Petition).

[2] *Id.,* Volume I of the Petition, at 1.

[3] *See* Letter from the Department, ''Petition for the Imposition of Countervailing and Antidumping Duties on Imports of Titanium Sponge from Japan and Kazakhstan: Supplemental Questions,'' dated August 30, 2017 (Kazakhstan CVD Supplemental Questionnaire).

[4] *See* Letter to the Secretary of Commerce from the petitioner, re: ''Petition for the Imposition of Countervailing Duties on Titanium Sponge from Kazakhstan: TIMET Response to Supplemental Questionnaire,'' (September 1, 2017) (Kazakhstan CVD Supplement).

[5] *See* Letter from the Department, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Titanium Sponge from Japan and Kazakhstan: Supplemental Questions,'' dated September 8, 2017 (Second General Issues Supplemental Questionnaire).

[6] *See* ''Determination of Industry Support for the Petition'' section, below.

[7] *See* 19 CFR 351.204(b)(2).

[8] *See* Second General Issues Supplemental Questionnaire; s*ee also* Second General Issues Supplement, at Attachement D.

[9] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[10] *See* 19 CFR 351.102(b)(21).

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance: Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx,* and a handbook can be found at *https://access.trade.gov/help/*

filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, the Department notified representatives of the GOK of the receipt of the Petition, and provided them the opportunity for consultations with respect to the CVD Petition.[12] Consultations with Kazakhstan were held *via* conference call on September 7, 2017.[13]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers, as a whole, of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[14] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[15]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in a petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that titanium sponge, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[16]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the Appendix to this notice. The petitioner provided its own 2016 production of the domestic like product, and compared this to the estimated total production of the domestic like product for the entire domestic industry.[17] We relied on data the petitioner provided for purposes of measuring industry support.[18]

Our review of the data provided in the Petition, General Issues Supplement, and other information readily available to the Department indicates that the petitioner has established industry support for the Petition.[19] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[20] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[21] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[22] Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and that the petitioner has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department to initiate.[23]

Injury Test

Because Kazakhstan is a ''Subsidies Agreement Country'' within the

Handbook%20on%20Electronic%20Filling%20Procedures.pdf.

[12] *See* Letter to the Embassy of Kazakhstan, ''Countervailing Duty Petition on Titanium Sponge from Kazakhstan: Invitation for Consultations to Discuss the Countervailing Duty Petition'' (August 28, 2017).

[13] *See* Memorandum, re: ''Consultations with Officials from the Government of Kazakhstan (GOK) Regarding the Countervailing Duty (CVD) Petition on Titanium Sponge from Kazakhstan'' (September 7, 2017).

[14] *See* section 771(10) of the Act.

[15] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[16] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Titanium Sponge from Kazakhstan (Kazakhstan CVD Initiation Checklist), at Attachment II, ''Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Titanium Sponge from Japan and Kazakhstan.'' The checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[17] *See* Volume I of the Petition, at 6–7 and Exhibit GEN–20.

[18] *Id.* For further discussion, *see* Kazakhstan CVD Initiation Checklist, at Attachment II.

[19] *See* Kazakhstan CVD Initiation Checklist, at Attachment II.

[20] *See* section 702(c)(4)(D) of the Act; *see also* Kazakhstan CVD Initiation Checklist, at Attachment II.

[21] *See* Kazakhstan CVD Initiation Checklist, at Attachment II.

[22] *Id.*

[23] *Id.*

meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Kazakhstan materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[24]

The petitioner contends that the industry's injured condition is illustrated by reduced market share; displacement of U.S. production by subject imports; underselling and price suppression or depression; decline in production, capacity utilization, hours worked, and earnings before interest and taxes; lost sales and revenues; and decline in pricing for downstream titanium products.[25] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[26]

Initiation of CVD Investigation

Based on the examination of the CVD Petition, we find that the Petition meets the requirements of section 702 of the Act. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on three of the four alleged programs in Kazakhstan. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the Kazakhstan CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Therefore, we are initiating a CVD investigation to determine whether imports of titanium sponge from Kazakhstan benefit from countervailable subsidies conferred by the Government of Kazakhstan. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.[27] The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.[28] The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.[29]

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

Based on information from independent sources, the petitioner named one company as a producer/exporter of titanium sponge in Kazakhstan.[30] Although the Department normally relies on the number of producers/exporters identified in the petition and/or import data from U.S. Customs and Border Protection (CBP) to determine whether to select a limited number of producers/exporters for individual examination in a CVD investigation, the petitioner identified only one company as a producer/exporter of titanium sponge in Kazakhstan: Ust-Kamenogorsk Titanium Magnesium Plant JSC (UKTMP). We currently know of no additional producers/exporters of merchandise under consideration from Kazakhstan and the petitioner provided information from independent sources as support.[31] Accordingly, the Department intends to examine the sole producer/exporter in this investigation for Kazakhstan (*i.e.,* the company cited above). Parties wishing to comment on respondent selection for Kazakhstan must do so within five days of the publication of this notice in the **Federal Register**. Any such comments must be submitted no later than 5:00 p.m. ET on the due date, and must be filed electronically via ACCESS.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOK *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of titanium sponge from Kazakhstan are materially injuring, or threatening material injury to, a U.S. industry.[32] A negative ITC determination will result in the investigation being terminated.[33] Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[34] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[35] Time

[24] *See* Volume I of the Petition, at 24–25 and Exhibits GEN–5 and GEN–6.

[25] *See* Volume I of the Petition, at 1–3, 14–15, 18–47 and Exhibits GEN–1, GEN–2, GEN–5, GEN–6, GEN–10, GEN–12—GEN–15, GEN–19—GEN–26, GEN–30, GEN–31, and GEN–33.

[26] *See* Kazakhstan CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Titanium Sponge from Japan and Kazakhstan.

[27] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[28] *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The 2015 amendments may be found at *https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.*

[29] *See Applicability Notice,* 80 FR, at 46794–95.

[30] *See* Petition, Volume I at 13; *see also* Kazakhstan CVD Supplement, at 1.

[31] *See* Petition, Volume I.

[32] *See* section 703(a)(2) of the Act.

[33] *See* section 703(a)(1) of the Act.

[34] *See* 19 CFR 351.301(b).

[35] *See* 19 CFR 351.301(b)(2).

limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[36] Parties must use the certification formats provided in 19 CFR 351.303(g).[37] The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Dated: September 13, 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.

Appendix

Scope of the Investigation

The product covered by this investigation is all forms and grades of titanium sponge, except as specified below. Titanium sponge is unwrought titanium metal that has not been melted. Expressly excluded from the scope of this investigation are:

(1) Loose particles of unwrought titanium metal having a particle size of less than 20 mesh (0.84 mm);

(2) alloyed or unalloyed briquettes of unwrought titanium metal that contain more than 0.2% oxygen on a dry weight basis; and

(3) ultra-high purity titanium sponge. In ultra-high purity titanium sponge, metallic impurities do not exceed any of these amounts:

WT %

Aluminum 0.0005
Chromium 0.0001
Cobalt 0.0001
Copper 0.0002
Iron 0.0300
Manganese 0.0010
Nickel 0.0002
Vanadium 0.0002
Zirconium 0.0005
Carbon 0.0150
Hydrogen 0.0100
Nitrogen 0.0020
Oxygen 0.1000

Titanium sponge is currently classified under subheading 8108.20.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheading is provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

[FR Doc. 2017–20029 Filed 9–19–17; 8:45 am]

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[36] *See* section 782(b) of the Act.

[37] *See also* Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings, 78 FR 42678 (July 17, 2013) (Final Rule). Answers to frequently asked questions regarding the Final Rule are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–877, A–834–809]

Titanium Sponge From Japan and Kazakhstan: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable September 13, 2017.

FOR FURTHER INFORMATION CONTACT: Aleksandras Nakutis at (202) 482–3147 (Japan) and Jonathan Hill at (202) 482–3518 (Kazakhstan), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On August 24, 2017, the U.S. Department of Commerce (the Department) received antidumping duty (AD) Petitions concerning imports of titanium sponge from Japan and Kazakhstan, filed in proper form on behalf of Titanium Metals Corporation (the petitioner).[1] The AD Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of titanium sponge from Kazakhstan. The petitioner is a domestic producer of titanium sponge.[2] On August 29, 2017, September 5, 2017, and September 8, 2017, the Department requested supplemental information pertaining to certain areas of the Petitions.[3] The petitioner filed responses to these requests on August 31, 2017, September 7, 2017, and September 11, 2017, respectively.[4] The petitioner filed

[1] *See* Letter to the Secretary of Commerce re: ''Titanium Sponge from Japan and Kazakhstan: Petition for the Imposition of Antidumping and Countervailing Duties'' (August 24, 2017) (the Petitions).

[2] *See* Volume I of the Petitions, at 1–2.

[3] *See* Letter from the Department, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Titanium Sponge from Japan and Kazakhstan: Supplemental Questions,'' dated August 29, 2017 (General Issues Supplemental Questionnaire); *see also* Petition for the Imposition of Antidumping Duties on Imports of Titanium Sponge from Japan: Supplemental Questionnaire; *and* Petition for the Imposition of Antidumping Duties on Imports of Titanium Sponge from Kazakhstan: Supplemental Questionnaire. All of these documents are dated August 29, 2017. *See also* Letter from the Department, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Titanium Sponge from Japan and Kazakhstan: Supplemental Questions,'' dated September 8, 2017 (Second General Issues Supplemental Questionnaire).

[4] *See* Letter from the petitioner, ''Petitions for the Imposition of Antidumping and Countervailing

Continued

revised scope language on September 11, 2017.[5]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of titanium sponge from Japan and Kazakhstan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing titanium sponge in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed these Petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioner is requesting.[6]

Period of Investigation

Because the Petitions were filed on August 24, 2017, the period of investigation (POI) for these investigations is July 1, 2016, through June 30, 2017.

Scope of the Investigations

The product covered by these investigations is titanium sponge from Japan and Kazakhstan. For a full description of the scope of these investigations, *see* the ''Scope of the Investigations,'' in the Appendix to this notice.

Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.[7]

As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[8] The Department will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[9] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, October 3, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, October 13, 2017, which is 10 calendar days from the initial comments deadline.[10]

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD titanium sponge investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[11] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department will provide interested parties an opportunity to comment on the appropriate physical characteristics of titanium sponge to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they believe are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe titanium sponge, it may be that only a select few product characteristics are commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all

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Duties on Titanium Sponge from Japan and Kazakhstan: TIMET Response to Supplemental General Questions;'' (August 31, 2017) (General Issues Supplement); *see also* ''Petition for the Imposition of Antidumping Duties on Titanium Sponge from Japan: TIMET Response to Supplemental Questionnaire;'' (Japan AD Supplement) *and* ''Petition for the Imposition of Antidumping Duties on Titanium Sponge from Kazakhstan: TIMET Response to Supplemental Questionnaire.'' (Kazakhstan AD Supplement). Each of these documents is dated August 31, 2017; *see also* Letter from the petitioner, ''Petition for the Imposition of Antidumping and Countervailing Duties on Titanium Sponge from Japan and Kazakhstan: TIMET Response to September 6, 2017,'' dated September 7, 2017 (Second Supplement); *see also* Letter from the petitioner, ''Petition for the Imposition of Antidumping and Countervailing Duties on Titanium Sponge from Japan and Kazakhstan: TIMET Rsponse to September 8, 2017 Supplemental Questions, dated Septeber (Second General Issues Supplement).

[5] *See* Second General Issues Supplement.

[6] *See* the ''Determination of Industry Support for the Petitions'' section, below.

[7] *See* Second General Issues Questionnaire; *see also* Second General Issues Supplement, at Attachment D.

[8] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[9] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[10] *See* 19 CFR 351.303(b).

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

product characteristics comments must be filed by 5:00 p.m. ET on October 3, 2017. Any rebuttal comments must be filed by 5:00 p.m. ET on October 13, 2017. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the Japan and Kazakhstan less-than-fair-value investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[12] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[13]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in a petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that titanium sponge, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[14]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the Appendix to this notice. The petitioner provided its own 2016 production of the domestic like product, and compared this to the estimated total production of the domestic like product for the entire domestic industry.[15] We relied on data the petitioner provided for purposes of measuring industry support.[16]

Our review of the data provided in the Petitions and other information readily available to the Department indicates that the petitioner has established industry support for the Petitions.[17] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[18] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[19] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[20] Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and that the petitioner has demonstrated sufficient industry support with respect to the AD investigations that it is requesting the Department to initiate.[21]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[22]

The petitioner contends that the industry's injured condition is illustrated by reduced market share;

[12] *See* section 771(10) of the Act.

[13] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[14] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklist: Titanium Sponge from Japan (Japan AD Initiation Checklist), at Attachment II, ''Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Titanium Sponge from Japan and Kazakhstan;'' *see also* Antidumping Duty Investigation Initiation Checklist: Titanium Sponge from Kazakhstan (Kazakhstan AD Initiation Checklist), at Attachment II, ''Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Titanium Sponge from Japan and Kazakhstan.'' These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[15] *See* Volume I of the Petitions, at 6–7 and Exhibit GEN–20.

[16] *Id.* For further discussion, *see* Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist, at Attachment II.

[17] *See* Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist, at Attachment II.

[18] *See* section 732(c)(4)(D) of the Act; *see also* Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist, at Attachment II.

[19] *See* Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist, at Attachment II.

[20] *Id.*

[21] *Id.*

[22] *See* Volume I of the Petitions, at 24–25 and Exhibits GEN–5 and GEN–6.

displacement of U.S. production by subject imports; underselling and price suppression or depression; decline in production, capacity utilization, hours worked, and earnings before interest and taxes, lost sales and revenues; and decline in pricing for downstream titanium products.[23] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[24]

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate AD investigations of imports of titanium sponge from Japan and Kazakhstan. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

Export Price

For Japan, the petitioner based U.S. export prices (EPs) on price quotes for sales of titanium sponge produced in, and exported from, Japan and offered for sale in the United States, and on average unit values (AUVs) obtained from official import statistics.[25] For Kazakhstan, the petitioner based U.S. EP on an AUV obtained from official import statistics.[26] Where applicable, the petitioner made deductions from U.S. price for movement expenses.[27]

Normal Value

The petitioner was unable to obtain any prices of sales (or offers for sale) of titanium sponge in Kazakhstan.[28] Additionally, although the petitioner was able to obtain a range of titanium sponge prices in Japan during the 2017 fiscal year from the publication Nihon Keizai Shimbun, the petitioner provided evidence indicating that these prices may be based on affiliated-party sales and thus may not be arm's length prices.[29] As a result, the petitioner contends that these home market prices are not usable for determining normal value.[30] Furthermore, for both Japan and Kazakhstan, the petitioner stated that it was unable to find usable third-country titanium sponge prices.[31] Therefore, for both Japan and Kazakhstan, the petitioner based NV on constructed value (CV). For further discussion of the cost of production (COP) and NV based on CV, *see* the section ''Normal Value Based on Constructed Value'' below.[32]

Normal Value Based on Constructed Value

Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, and profit. The petitioner determined the COM of titanium sponge by adding together the costs of raw materials, labor, maintenance, electricity, other supplies, and factory overhead, as applicable, incurred by the petitioner, adjusted, where possible, for known differences from costs in Japan and Kazakhstan during a contemporaneous period to the POI. Specifically, the petitioner adjusted for known differences in costs by using publicly available labor and energy rates for Japan and Kazakhstan. The petitioner based prices for raw materials, maintenance, other supplies and factory overhead on the petitioner's own costs as such costs in Japan and Kazakhstan were not reasonably available to the petitioner. The petitioner calculated SG&A expenses, financial expense, and profit based on the experience of Japanese and Kazakh producers of identical merchandise.[33]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of titanium sponge from Japan and Kazakhstan are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for titanium sponge from Japan and Kazakhstan are as follows: Japan—69.69% to 95.20% percent; [34] and Kazakhstan—42.22%.[35]

Initiation of Less-Than-Fair-Value Investigations

Based upon our examination of the AD Petitions, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of titanium sponge from Japan and Kazakhstan are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations in these investigations no later than 140 days after the date of this initiation. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist. Public versions of the initiation checklists for these investigations are available on ACCESS.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD law were made.[36] The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.[37] The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after

[23] *See* Volume I of the Petitions, at 1–3, 14–15, 18–47 and Exhibits GEN–1, GEN–2, GEN–5, GEN–6, GEN–10, GEN–12—GEN–15, GEN–19—GEN–26, GEN–30, GEN–31, and GEN–33.

[24] *See* Japan AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Titanium Sponge from Japan and Kazakhstan (Attachment III); and Kazakhstan AD Initiation Checklist, at Attachment III.

[25] *See* Japan AD Initiation Checklist.

[26] *See* Kazakhstan AD Initiation Checklist.

[27] *See* Japan AD Initiation Checklist; and Kazakhstan AD Initiation Checklist.

[28] The petitioner cited a newspaper article which quotes the President of Ust-Kamenogorsk Titanium Magnesium Plant JSC (UKTMP) (the sole producer of titanium sponge in Kazakhstan according to the petitioner) as saying ''100% of UKTMP products are exported. . .'' *See* Kazakhstan AD Supplement, at 2–3 and Exhibit B.

[29] *See* Volume II-a of the Petitions, at 6–8; *see also* Japan AD Supplement at 3–4.; *see also* Japan Second Supplement, at 1.

[30] *See* Japan Second Supplement, at 1.

[31] *See* Japan Second Supplement, at 1–2.

[32] In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for all of the investigations, the Department will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. The Department no longer requires a COP allegation to conduct this analysis.

[33] *See* Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist.

[34] *See* Japan AD Initiation Checklist. The petitioner also calculated margins based on a comparison between EP and the home market prices. However, because the petitioner contends that the home market prices are not usable for purposes of determining normal value, we have relied on the estimated dumping margins based on the comparison between EP and CV for purposes of the initiation.

[35] *See* Kazakhstan AD Initiation Checklist.

[36] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[37] *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015).

August 6, 2015, and, therefore, apply to these AD investigations.[38]

Respondent Selection

Although the Department normally relies on the number of producers/exporters identified in the petition and/or import data from U.S. Customs and Border Protection (CBP) to determine whether to select a limited number of producers/exporters for individual examination in AD investigations, the petitioner identified only two companies as producers/exporters of titanium sponge from Japan: Osaka Titanium Technologies Co., Ltd. and Toho Titanium Company., Ltd.; and one company as a producer/exporter of titanium sponge form Kazakhstan: UKTMP. We currently know of no additional producers/exporters of the merchandise under consideration from Japan or Kazakhstan and the petitioner provided information from an independent source as support for its claim that there are only two producers/exporters or titanium sponge in Japan and only one producer/exporter or titanium sponge in Kazakhstan.[39] Accordingly, the Department intends to examine the producers/exporters identified in the Petitions for these investigations. Parties wishing to comment on respondent selection must do so within five days of the publication of this notice in the **Federal Register**. Any such comments must be submitted no later than 5:00 p.m. ET on the due date, and must be filed electronically via ACCESS.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Japan and Kazakhstan *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of titanium sponge from Japan and/or Kazakhstan are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country. Otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [40] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[41] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[42] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[43] The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

[38] *Id.* at 46794–95. The 2015 amendments may be found at *https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.*

[39] *See* Volume I of the Petitions, at Exhibit GEN–14.

[40] *See* 19 CFR 351.301(b).

[41] *See* 19 CFR 351.301(b)(2).

[42] *See* section 782(b) of the Act.

[43] *See Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

Dated: September 13, 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.

Appendix

Scope of the Investigations

The product covered by these investigations is all forms and grades of titanium sponge, except as specified below. Titanium sponge is unwrought titanium metal that has not been melted. Expressly excluded from the scope of these investigations are:

(1) Loose particles of unwrought titanium metal having a particle size of less than 20 mesh (0.84 mm);

(2) alloyed or unalloyed briquettes of unwrought titanium metal that contain more than 0.2% oxygen on a dry weight basis; and

(3) ultra-high purity titanium sponge. In ultra-high purity titanium sponge, metallic impurities do not exceed any of these amounts:

WT %

Aluminum 0.0005
Chromium 0.0001
Cobalt 0.0001
Copper 0.0002
Iron 0.0300
Manganese 0.0010
Nickel 0.0002
Vanadium 0.0002
Zirconium 0.0005
Carbon 0.0150
Hydrogen 0.0100
Nitrogen 0.0020
Oxygen 0.1000

Titanium sponge is currently classified under subheading 8108.20.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheading is provided for convenience and customs purposes; the written description of the scope of these investigations is dispositive.

[FR Doc. 2017–20028 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF658

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Announcement of rescheduled meetings of the South Atlantic Fishery Management Council's Citizen Science Advisory Panel Projects/Topics Management; Volunteers; Communication/Outreach/Education Action Teams.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Citizen Science Advisory Panel Projects/Topics Management; Volunteers; Communication/Outreach/Education Action Teams via webinar. The meetings via webinar were originally scheduled for Tuesday, September 19, 2017 at 1 p.m. (Projects/Topics Management); Thursday, September 21, 2017 at 1 p.m. (Volunteers); Friday, September 22, 2017 at 10 a.m. (Communication/Outreach/Education) but have been rescheduled as a result of wide-spread impacts due to Hurricane Irma [See **SUPPLEMENTARY INFORMATION**].

DATES: The Volunteers Team meeting has been rescheduled for Monday, October 2, 2017 at 1 p.m.; Projects/Topics Management Team on Tuesday, October 3, 2017 at 2 p.m.; and Communication/Outreach/Education Team on Wednesday, October 4 at 1 p.m. Each meeting is scheduled to last approximately 90 minutes. Additional Action Team webinar and plenary webinar dates and times will publish in a subsequent issue in the **Federal Register**.

ADDRESSES: The meetings will be held via webinar and are open to members of the public. Webinar registration is required and registration links will be posted to the Citizen Science program page of the Council's Web site at *www.safmc.net.*

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Amber Von Harten, Citizen Science Program Manager, SAFMC; phone: (843) 302–8433 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *amber.vonharten@safmc.net.*

SUPPLEMENTARY INFORMATION: Due to the impacts of Hurricane Irma and ongoing recovery efforts in the South Atlantic region, the meetings of the Council's Citizen Science Advisory Panel Projects/Topics Management; Volunteers; Communication/Outreach/Education Action Team originally scheduled for Tuesday, September 19, 2017 at 1 p.m. (Projects/Topics Management); Thursday, September 21, 2017 at 1 p.m. (Volunteers); Friday, September 22, 2017 at 10 a.m. (Communication/Outreach/Education) have been rescheduled. The originally scheduled meetings were published in the **Federal Register** on September 1, 2017 (82 FR 41613).

The Volunteers Team meeting has been rescheduled for Monday, October 2, 2017 at 1 p.m.; Projects/Topics Management Team on Tuesday, October 3, 2017 at 2 p.m.; and Communication/Outreach/Education Team on Wednesday, October 4 at 1 p.m.

The South Atlantic Fishery Management Council (Council) created a Citizen Science Advisory Panel Pool in June 2017. The Council appointed members of the Citizen Science Advisory Panel Pool to five Action Teams in the areas of *Volunteers, Data Management, Projects/Topics Management, Finance,* and *Communication/Outreach/Education* to develop program policies and operations for the Council's Citizen Science Program.

The Communication/Outreach/Education; Projects/Topics Management; Volunteers Action Teams will meet to continue work on developing recommendations on program policies and operations to be reviewed by the Council's Citizen Science Committee. Public comment will be accepted at the beginning of the meeting.

Items to be addressed during these meetings:

1. Discuss work on tasks in the Terms of Reference
2. Other Business

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 15, 2017.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–20039 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF696

Marine Mammals; File Nos. 21217 and 21397

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

ACTION: Notice; receipt of applications.

SUMMARY: Notice is hereby given that the following entities have applied in due form for a permit to receive, import, and/or export marine mammal parts for scientific research:

File No. 21217: Aaron Roberts, Ph.D., University of North Texas, Biological Sciences, 1155 Union Circle, #310559, Denton, TX 76203;

File No. 21397: Burke Museum, Mammalogy [Julie Stein, Responsible Party], University of Washington, Box 353010, Seattle, WA 98195.

DATES: Written, telefaxed, or email comments must be received on or before October 20, 2017.

ADDRESSES: The applications and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting the appropriate File No. from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on these applications should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on the application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Lisa Lierheimer or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and/or the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

File No. 21217: The applicant proposes to import biological samples from up to 30 harp seals (*Pagophilus groenlandicus*) and 30 hooded seals (*Cystophora cristata*) from Canada to study the effects of polybrominated diphenyl ethers (PBDEs) on the fitness and immune function in two species of phocid seals. No takes of live animals would be authorized under this permit. The permit would be valid for up to five years after issuance.

File No. 21397: The applicant proposes to receive, import, and export biological samples from up to 10 cetaceans and 10 pinnipeds (excluding walrus) annually for scientific research, curation, and education. Receipt, import, and export is requested worldwide. Sources of samples may include marine mammal strandings in foreign countries, foreign and domestic subsistence harvests, captive animals, other authorized researchers or curated collections, and marine mammals that died incidental to commercial fishing operations in the U.S. and foreign countries, where such take is legal. The requested duration of the permit is 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the proposed activities are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of these applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: September 14, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–19977 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF684

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting (webinar).

SUMMARY: The Groundfish Subcommittee of the Pacific Fishery Management Council's (Pacific Council's) Scientific and Statistical Committee (SSC) will hold a meeting via webinar to review analyses informing 2019 and 2020 groundfish harvest specifications and other matters that will be considered at the November 14–20, 2017 Pacific Council meetings in Costa Mesa, California. The webinar meeting is open to the public.

DATES: The SSC Groundfish Subcommittee webinar will be held Thursday, September 28, 2017, from 8:30 a.m. to 5:30 p.m. (Pacific Daylight Time) or until business for the day has been completed.

ADDRESSES: The SSC's Groundfish Subcommittee meeting will be held by webinar. To attend the webinar, (1) join the meeting by visiting this link *http://www.gotomeeting.com/webinar;* (2) enter the webinar ID: 975–440–411, and (3) enter your name and email address (required). After logging into the webinar, please (1) dial this TOLL number: 1–631–992–3221 (not a toll-free number); (2) enter the attendee phone audio access code: 214–350–817; and (3) then enter your audio phone pin (shown after joining the webinar). *Note:* We have disabled mic/speakers as an option and require all participants to use a telephone or cell phone to participate. Technical Information and System Requirements: PC-based attendees are required to use Windows® 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (See the *https://www.gotomeeting.com/webinar/ipad-iphone-android-webinar-apps*). You may send an email to Mr. Kris Kleinschmidt at *Kris.Kleinschmidt@noaa.gov* or contact him at 503–820–2280, extension 411 for technical assistance. A public listening station will also be available at the Pacific Council office.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Staff Officer, Pacific Fishery Management Council; telephone: 503–820–2413.

SUPPLEMENTARY INFORMATION: The purpose of the SSC Groundfish Subcommittee meeting is to review a new yelloweye rockfish rebuilding analysis, and review new data-limited estimates of overfishing limits (OFLs) for cowcod in the Monterey area, starry flounder, gopher rockfish off California, greenspotted rockfish north of 42° N. lat., blue and deacon rockfishes south of

34°27′ N. lat., blue and deacon rockfishes off Washington, and cabezon off Washington. Some of these data-limited OFLs may be reviewed and resolved by the SSC at the September 11–18, 2017 meeting in Boise, Idaho. If not, then the full suite of OFLs listed above will be reviewed by the SSC Groundfish Subcommittee at this September 28 webinar meeting. The SSC Groundfish Subcommittee will also review additional model runs from the 2017 assessment of Pacific ocean perch (POP) and may recommend a new assessment of POP as best scientific information available. Additionally, the SSC Groundfish Subcommittee will review a paper addressing conditions placed on the west coast bottom trawl groundfish fishery for shortraker rockfish, silvergray rockfish, and California skate by the Marine Stewardship Council.

No management actions will be decided by the SSC's Groundfish Subcommittee. The SSC Groundfish Subcommittee members' role will be development of recommendations and reports for consideration by the SSC and Pacific Council at the November meeting in Costa Mesa, California.

Although nonemergency issues not contained in the meeting agendas may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent of the SSC Groundfish Subcommittee to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt 503–820–2411 at least ten days prior to the meeting date.

Dated: September 15, 2017.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–20038 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF694

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Ecosystem and Ocean Planning (EOP) Committee with Advisory Panel (AP) will hold a public meeting.

DATES: The meeting will be held on Friday October 6, 2017. The meeting will begin at 10 a.m. and conclude no later than 3 p.m. The meeting will be held via webinar with a telephone-only connection option. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Information about connecting to this webinar based meeting will be posted on the Council Web site at *www.mafmc.org* two weeks prior to meeting.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their Web site at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review the final list of risk elements to be evaluated by the Council as part of its Ecosystem Approach to Fisheries Management. At this meeting, the EOP Committee and Advisors will provide final rankings of the risk elements that will be communicated to the full Council at its October meeting in Riverhead, NY. Once adopted, the prioritized risk matrix will be used by the Council to inform its future work and scientific research plans.

Dated: September 14, 2017.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–19976 Filed 9–19–17; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (''PRA''), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Management and Budget (''OMB'') for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before October 20, 2017.

ADDRESSES: Comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (''OIRA'') in OMB, within 30 days of the notice's publication, by either of the following methods. Please identify the comments by OMB Control No. 3038–0079.

- *By email addressed to: OIRAsubmissions@omb.eop.gov;* or
- *By mail addressed to:* Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (''CFTC'' or ''Commission'') by either of the following methods. The copies should refer to OMB Control No. 3038–0079.

- *By submission through the Commission's Web site: http://comments.cftc.gov.* Please follow the instructions for submitting comments through the Web site;
- *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; or
- *By hand delivery/courier to:* The address listed above for submission by mail.

FOR FURTHER INFORMATION CONTACT: Katherine Driscoll, Associate Chief Counsel, (202) 418–5544, *kdriscoll@cftc.gov;* or Jacob Chachkin, Special Counsel, 202–418–5496, *jchachkin@cftc.gov,* both in the CFTC Division of

Swap Dealer and Intermediary Oversight.

Supporting statements. A copy of the supporting statements for the collection of information discussed herein may be obtained by visiting *http://RegInfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants (OMB Control No. 3038–0079). This is a request for an amendment to a currently approved information collection.

Abstract: In 2012, the Commission promulgated Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties (''External Business Conduct Standards Final Rulemaking'') [1] which include all of Subpart H of Part 23 of the Commission's regulations (''EBCS Rules'').[2] In the External Business Conduct Standards Final Rulemaking, the Commission stated that the information collections associated with the EBCS Rules were part of the overall supervision, compliance and recordkeeping requirements imposed by the Commission in certain other rulemakings including, among others, the collection of information for rules on Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants under § 23.605 under OMB Collection No. 3038–0079. While the collections associated with the EBCS Rules do overlap with the requirements in certain other Commission regulations, the OMB collections associated with those other Commission regulations do not accurately reflect the burdens imposed by the EBCS Rules. The Commission is proposing to amend the information collection under OMB Control No. 3038–0079 to clearly reflect the paperwork burden imposed by the EBCS Rules under §§ 23.401–450 and ensure that the paperwork burden of the EBCS Rules is centrally located under OMB Control No. 3038–0079. In addition, the Commission will be retitling the collection under OMB Control No. 3038–0079 ''Swap Dealer and Major Swap Participant Conflicts of Interest and Business Conduct Standards with Counterparties'' to more accurately reflect its coverage. The collections of information contained in the EBCS Rules are necessary to implement requirements set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act [3] and for the protection of investors and market participants.

On June 20, 2017, the Commission published in the **Federal Register** a notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension. *See* 82 FR 28050 (June 20, 2017). The Commission received no relevant comments.

Burden Statement: The respondent burden for this collection is detailed below and includes the burden currently associated with OMB Collection No. 3038–0079 in connection with § 23.605 (Conflicts of Interest Policies and Procedures for Swap Dealers and Major Swap Participants) and the EBCS Rules. The Commission estimates the burden of this collection of information as follows:

Respondents/Affected Entities: Swap Dealers and Major Swap Participants.

Estimated Number of Respondents: 102.

Estimated Average Burden Hours per Respondent: 2,352.9 hours.

Estimated Total Annual Burden on Respondents: 240,000 hours.

Frequency of Collection: Ongoing.

Comment instructions. All comments must be submitted in English or, if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations, 17 CFR 145.9. The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: September 15, 2017.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2017–20025 Filed 9–19–17; 8:45 am]

BILLING CODE 6351–01–P

[1] Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties, 77 FR 9734, Feb. 17, 2012.

[2] Subpart H of Part 23 is titled ''Business Conduct Standards for Swap Dealers and Major Swap Participants Dealing with Counterparties, Including Special Entities.'' Subpart H includes the following provisions: § 23.400 (Scope); § 23.401 (Definitions); § 23.402 (General Provisions); § 23.410 (Prohibition on fraud, manipulation and other abusive practices); § 23.430 (Verification of counterparty eligibility); § 23.431 (Disclosures of material information); § 23.432 (Clearing disclosures); § 23.433 Communications—fair dealing); § 23.434 (Recommendations to counterparties—institutional suitability; § 23.440 (Requirements for swap dealers acting as advisors to Special Entities); § 23.450 (Requirements for swap dealers and major swap participants acting counterparties to Special Entities); and § 23.451 (Political contributions by certain swap dealers).

[3] See Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at: *http://www.cftc.gov/ucm/groups/public/@swaps/documents/file/hr4173_enrolledbill.pdf.*

DEPARTMENT OF DEFENSE

Department of the Army

Army Education Advisory Subcommittee Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open subcommittee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Command and General Staff College (CGSC) Board of Visitors, a subcommittee of the Army Education Advisory Committee. This meeting is open to the public.

DATES: The CGSC Board of Visitors Subcommittee will meet from 1:00 p.m. to 5:00 p.m. on November 6 from 8:30 a.m. to 12:30 p.m. on November 7, 2017.

ADDRESSES: U. S. Army Command and General Staff College, Lewis and Clark Center, 100 Stimson Ave., Bell Conference Room, Ft. Leavenworth, KS 66027.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Baumann, the Alternate Designated Federal Officer for the subcommittee, in writing at Command and General Staff College, 100 Stimson Ave., Ft. Leavenworth, KS 66027, by email at *robert.f.baumann.civ@mail.mil* or by telephone at (913) 684–2742.

SUPPLEMENTARY INFORMATION: The subcommittee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to provide the Subcommittee with an overview of CGSC academic programs, with focus on the College's two degree-granting schools: The Command and General Staff School (CGSS) and the School of

Advanced Military Studies (SAMS). This will be an informational meeting with particular focus on the possibility of establishing additional degree programs at CGSC.

Agenda: November 6–7: The subcommittee will review the results of the accreditation visit to CGSC in spring 2016 by the Higher Learning Commission and receive information briefings on potential opportunities to introduce additional degree programs at the College. No official recommendations will be forthcoming from this meeting. The committee will also complete certain administrative and training requirements associated with the service of individual subcommittee members. Summary minutes of the meeting will be provided to the Army Education Advisory Committee for consideration under the open-meeting rules.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Dr. Baumann, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section.

Because the meeting of the subcommittee will be held in a Federal Government facility on a military base, security screening is required. A photo ID is required to enter base. Please note that security and gate guards have the right to inspect vehicles and persons seeing to enter and exit the installation. Lewis and Clark Center is fully handicap accessible. Wheelchair access is available in front at the main entrance of the building. For additional information about public access procedures, contact Dr. Baumann, the subcommittee's Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the subcommittee, in response to the stated agenda of the open meeting or in regard to the subcommittee's mission in general. Written comments or statements should be submitted to Dr. Baumann, the subcommittee Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The Alternate Designated Federal Officer will review all submitted written comments or statements must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Alternate Designated Federal Officer at least seven business days prior to the meeting to be considered by the subcommittee. Written comments or statements received after this date may not be provided to the subcommittee until its next meeting.

Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public will be permitted to make verbal comments during the Committee meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least seven business days in advance to the subcommittee's Alternate Designated Federal Official, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. The Alternate Designated Federal Officer will log each request, in the order received, and in consultation with the Subcommittee Chair, determine whether the subject matter of each comment is relevant to the Subcommittee's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three minutes during the period, and will be invited to speak in the order in which their requests were received by the Alternate Designated Federal Officer.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2017–19905 Filed 9–19–17; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Strategic Command Strategic Advisory Group; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Chairman Joint Chiefs of Staff, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Strategic Command Strategic Advisory Group will take place.

DATES: Day 1—Closed to the public Tuesday, October 16, 2017, from 8:00 a.m. to 4:00 p.m. and Day 2—Closed to the public Wednesday, October 17, 2017, from 8:00 a.m. to 12:00 p.m.

ADDRESSES: Dougherty Conference Center, Building 432, 906 SAC Boulevard, Offutt AFB, Nebraska 68113.

FOR FURTHER INFORMATION CONTACT: John Trefz, (402) 294–4102 (Voice), (402) 294–3128 (Facsimile), *john.l.trefz.civ@mail.mil* (Email). Mailing address is 901 SAC Boulevard, Suite 1F7, Offutt AFB, NE 68113–6030.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to provide advice on scientific, technical, intelligence, and policy-related issues to the Commander, U.S. Strategic Command, during the development of the Nation's strategic war plans.

Agenda: Topics include: Policy Issues, Space Operations, Nuclear Weapons Stockpile Assessment, Weapons of Mass Destruction, Intelligence Operations, Cyber Operations, Global Strike, Command and Control, Science and Technology, Missile Defense.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. Per delegated authority by the Chairman, Joint Chiefs of Staff, General John E. Hyten, Commander, U.S. Strategic Command, in consultation with his legal advisor, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will

be concerned with matters listed in 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.140(c), the public or interested organizations may submit written statements to the membership of the Strategic Advisory Group at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Strategic Advisory Group's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.* Written statements that do not pertain to a scheduled meeting of the Strategic Advisory Group may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all the committee members.

Dated: September 14, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–19978 Filed 9–19–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program Scientific Advisory Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Acquisition Technology and Logistics, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Strategic Environmental Research and Development Program Scientific Advisory Board will take place.

DATES: 1st meeting: Open to the public Tuesday, October 17, from 8:30 a.m. to 4:50 p.m. 2nd meeting: Day 1—Open to the public Wednesday, October 18, 2017, from 8:30 a.m. to 4:40 p.m. Day 2—Open to the public Thursday, October 19, 2017, from 8:30 a.m. to 4:55 p.m.

ADDRESSES: The address for both meetings is the Potomac Institute for Policy Studies, 901 North Stuart Street, Suite 200, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Herb Nelson, 571–372–6400 (Voice), *herbert.h.nelson10.civ@mail.mil* (Email). Mailing address is SERDP Office, 4800 Mark Center Drive, Suite 17D08, Alexandria, VA 22350–3605. Web site: *https://www.serdp-estcp.org/About-SERDP-and-ESTCP/About-SERDP/Scientific-Advisory-Board.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150. This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

Purpose of the Meeting: The purpose of both the October 17, 2017 and the October 18–19, 2017 meetings are to review new start research and development projects requesting Strategic Environmental Research and Development Program funds as required by the SERDP Statute, U.S. Code—Title 10, Subtitle A, Part IV, Chapter 172, 2904.

Agenda: Tuesday, October 17, 2017: 8:30 a.m. Convene/Opening Remarks Approval of September 2017 Minutes—Dr. Joseph Hughes, Chair; 8:40 a.m. Program Update—Dr. Herb Nelson, Acting Executive Director; 9:00 a.m. Environmental Restoration Overview—Dr. Andrea Leeson, Environmental Restoration Program Manager; 9:10 a.m. ER18–C1–1259 (ER18–1259): A Mechanistic Understanding of PFASs in Source Zones: Characterization and Control (FY18 New Start)—Dr. Jennifer Field, Oregon State University; 9:55 a.m. ER18–C1–1204 (ER18–1204): Insights into the Long-Term Mass Discharge & Transformation of AFFF in the Unsaturated Zone (FY18 New Start)—Dr. Charles Schaefer, CDM Smith; 10:40 a.m. Break; 10:55 a.m. ER18–C1–1280 (ER18–1280): Evaluating the Importance of Precursor Transport and Transformation for Groundwater Contamination with Poly- and Perfluoroalkyl Substances (FY18 New Start)—Dr. Elsie Sunderland, Harvard University; 11:40 a.m. ER18–C2–1063 (ER18–1063): Regenerable Resin Sorbent Technologies with Regenerant Solution Recycling for Sustainable Treatment of Per- and Polyfluoroalkyl Substances (PFASs) (FY18 New Start)—Dr. Timothy Strathmann, Colorado School of Mines; 12:25 p.m. Lunch; 1:25 p.m. Environmental Restoration Overview—Dr. Andrea Leeson, Environmental Restoration Program Manager; 1:35 p.m. ER18–C1–1149 (ER18–1149): Development and Laboratory Validation of Mathematical Modeling Tools for Prediction of PFAS Transformation, Transport, and Retention in AFFF Source Areas (FY18 New Start)—Dr. Linda Abriola, Tufts University; 2:20 p.m. ER18–C2–1027 (ER18–1027): Ex Situ Treatment of PFAS Contaminated Groundwater Using Ion Exchange with Regeneration (FY18 New Start)—Dr. Mark Fuller, Aptim Federal Services; 3:05 p.m. Break; 3:20 p.m. ER18–C2–1289 (ER18–1289): Treatment of Legacy and Emerging Fluoroalkyl Contaminants in Groundwater with Integrated Approaches: Rapid and Regenerable Adsorption and UV-Induced Defluorination (FY18 New Start)—Dr. Jinyong Liu, UC Riverside; 4:05 p.m. ER18–C2–1306 (ER18–1306): Combined In Situ/Ex Situ Treatment Train for Remediation of Per- and Polyfluoroalkyl Substance (PFAS) Contaminated Groundwater (FY18 New Start)—Dr. Michelle Crimi, Clarkson University; 4:50 p.m. Public Discussion/Adjourn for the day. Wednesday, October 18, 2017: 8:30 a.m. Convene—Dr. Joseph Hughes, Chair; 8:40 a.m. Environmental Restoration Overview—Dr. Andrea Leeson, Environmental Restoration Program Manager; 8:50 a.m. ER–C2–1026 (ER18–1026): Rational Design and Implementation of Novel Polymer Adsorbents for Selective Uptake of Per- and Polyfluoroalkyl Substances From Groundwater—Dr. Damian Helbling, Cornell University; 9:35 a.m. Resource Conservation and Resiliency Overview—Dr. Kurt Preston, Resource Conservation and Resiliency Program Manager; 9:45 a.m. RC18–C2–1006 (RC18–1006): Understanding and Assessing Riparian Habitat Vulnerability to Drought-Prone Climate Regimes on DoD Bases in the Southwestern USA (FY18 New Start)—Dr. Michael Singer, UC Santa Barbara; 10:30 a.m. Break; 10:45 a.m. RC18–C2–1346 (RC18–1346): Climate-Driven Landscape Disturbance Assessment (FY18 New Start)—Dr. Adam Atchley, Los Alamos National Laboratory; 11:30 a.m. RC18–C2–1183 (RC18–1183): Resiliency and Vulnerability of Boreal Forest Habitat to the Interaction of Climate and Fire Disturbance across DoD Lands of Interior Alaska (FY18 New Start)—Dr. Scott Goetz, Northern Arizona University; 12:15 p.m. Lunch; 1:15 p.m. RC18–C2–1322 (RC18–1322): Forecasting Dryland Ecosystem Vulnerability to Change: A Cross-system Assessment of Vegetation and Process

Responses to Disturbance and Climate Variability on DoD Lands (FY18 New Start)—Dr. Scott Ferrenberg, United States Geological Survey; 2:00 p.m. RC18–C2–1021 (RC18–1021): Using Unmanned Aerial Systems to Model Spatially-Mediated Heterogeneity in 3D Microclimate Landscapes (FY18 New Start)—Dr. Anna Carter, Iowa State University; 2:45 p.m. Break; 3:00 p.m. RC18–C2–1108 (RC18–1108): Aquatic Ecosystem Vulnerability to Fire and Climate Change in Alaskan Boreal Forests (FY18 New Start)—Dr. Jeffrey Falke, United States Geological Survey; 3:45 p.m. Resource Conservation and Resiliency Overview—Dr. Kurt Preston, Resource Conservation and Resiliency Program Manager; 3:55 p.m. RC18–C1–1358 (RC18–1358): Using Remotely-sensed Data and Light-level Geolocator Technology to Inform Off-Post Landscape-Scale Conservation Planning for a Migratory Species (FY18 New Start)—Dr. Ashley Long, Texas A&M AgriLife Research; 4:40 p.m. Public Discussion/Adjourn for the day.

Thursday, October 19, 2017: 8:30 a.m.: Convene—Dr. Joseph Hughes, Chair; 8:40 a.m. Weapons Systems and Platforms Overview—Dr. Robin Nissan, WP Program Manager; 8:50 a.m. WP18–C4–1047 (WP18–1047): Development of an Agile, Novel Expeditionary Battlefield Manufacturing Plant using Recycled and Reclaimed Thermoplastic Materials (FY18 New Start)—Dr. Prabhat Krishnaswamy, Engineering Mechanics Corporation of Columbus; 9:35 a.m. WP18–C4–1323 (WP18–1323): Recycling and Reuse of Metal Alloys by a Single Solid-State Additive Manufacturing and Repair Process (FY18 New Start)—Dr. Paul Allison, University of Alabama; 10:20 a.m. Break; 10:35 a.m. Weapons Systems and Platforms Overview—Dr. Robin Nissan, WP Program Manager; 10:45 a.m. WP18–C1–1114 (WP18–1114): Emulsion Characterization Study for Improved Bilgewater Treatment and Management (FY18 New Start)—Ms. Danielle Paynter, Naval Surface Warfare Center; 11:30 a.m. Weapons Systems and Platforms Overview—Dr. Robin Nissan, WP Program Manager; 11:40 a.m. WP18–C3–1193 (WP18–1193): An Integral Hypergolic Hybrid-Solid Fuel Ramjet Concept for AP-Free High Performance Tactical Rocket Motors (FY18 New Start)—Dr. Mark Pfeil, U.S. Army Aviation & Missile Research, Development, and Engineering Center; 12:25 p.m. Lunch; 1:25 p.m. Weapons Systems and Platforms Overview—Dr. Robin Nissan, WP Program Manager; 1:35 p.m. WP18–F2–1439 (WP18–1439) Development and Evaluation of Non-Chromate LHE ZnNi Passivations for DoD Electrical Connectors (Follow-on to FY15 SEED Project)—Dr. Matthew O'Keefe, Missouri S&T; 2:20 p.m. Munitions Response Overview—Dr. Herbert Nelson, Munitions Response Program Manager; 2:30 p.m. MR18–C1–1233 (MR18–1233): Improved Penetrometer Performance in Stratified Sediment for Cost-Effective Characterization, Monitoring and Management of Submerged Munitions Sites (FY18 New Start)—Dr. Nina Stark, Virginia Tech; 3:15 p.m. Break; 3:30 p.m. Environmental Restoration Overview—Dr. Andrea Leeson, ER Program Manager; 3:40 p.m. ER–2531: Role of Acidophilic Methanotrophs in Long Term Natural Attenuation of VOCs in Low pH Aquifers (Follow On to FY15 Limited Scope Project)—Dr. Paul Hatzinger, Aptim Federal Services; 4:25 p.m. Strategy Session—Dr. Herb Nelson, Acting Executive Director; 4:55 p.m. Public Discussion/Adjourn.

Meeting Accessibility: The meeting location has proper and working facilities for those with disabilities. Please contact the Designated Federal Officer (DFO) if there are any issues.

Written Statements: Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Strategic Environmental Research and Development Program, Scientific Advisory Board. Written statements may be submitted to the committee at any time or in response to an approved meeting agenda. All written statements shall be submitted to the DFO for the Strategic Environmental Research and Development Program, Scientific Advisory Board. The DFO will ensure that the written statements are provided to the membership for their consideration. Time is allotted at the close of each meeting day for the public to make comments.

Dated: September 15, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–20011 Filed 9–19–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Extension of Scoping Period for the Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement for Northwest Training and Testing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: A notice of intent was published by the U.S. Environmental Protection Agency in the **Federal Register** (82 FR 39779) on August 22, 2017 for the supplement to the 2015 Final Northwest Training and Testing (NWTT) Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS). The 30-day scoping period ends on September 21, 2017. This notice announces a 15-day extension of the scoping period until October 6, 2017.

DATES: Public comments will be accepted during the 45-day scoping period from August 22, 2017 to October 6, 2017.

ADDRESSES: Comments may be provided via mail to the address provided below or through the project Web site at *http://nwtteis.com/.* Comments must be postmarked or received online by October 6, 2017 for consideration during the development of the Supplemental EIS/OEIS. Anyone interested in receiving electronic project updates can subscribe on the project Web site to receive notifications via email for key milestones throughout the environmental planning process.

FOR FURTHER INFORMATION CONTACT: Mr. John Mosher, 360–257–3234, *john.g.mosher@navy.mil.* U.S. Pacific Fleet, Attention: NWTT Supplemental EIS/OEIS Project Manager, 3730 North Charles Porter Avenue, Building 385, Oak Harbor, Washington 98278–3500.

Dated: September 14, 2017.

S.E. Milewski,

Deputy Division Director, Administrative Law Division, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2017–20013 Filed 9–19–17; 8:45 am]

BILLING CODE 3810–FF–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Notice

TIME AND DATE: 12:00 p.m.–3:00 p.m., September 26, 2017.

PLACE: Defense Nuclear Facilities Safety Board Headquarters, 625 Indiana

Avenue NW., Washington, DC 20004–2901.

STATUS: Open.

MATTERS TO BE CONSIDERED: This public meeting will be conducted pursuant to the Government in the Sunshine Act, the Board's implementing regulations for the Government in the Sunshine Act, and the Board's Operating Procedures. The objective of this public business meeting is for the Board to obtain testimony from the DNFSB staff on their completed and documented efforts to date regarding oversight of emergency preparedness and response, with a special emphasis on Board Recommendation 2014–1, and provide an opportunity for the Board to deliberate on these topics. The meeting will proceed in accordance with the meeting agenda, which is posted on the Board's public Web site at *www.dnfsb.gov.*

Public participation in the meeting is invited during the public comment period of the agenda. Persons interested in speaking during the public comment period are encouraged to pre-register by submitting a request in writing to the Board's address listed above, emailing *comment@dnfsb.gov,* or calling the Office of the General Counsel at (202) 694–7062 or (800) 788–4016 prior to close of business on September 19, 2017. The Board asks that commenters describe the nature and scope of their oral presentations. Those who pre-register will be scheduled to speak first. Individual oral comments may be limited by the time available, depending on the number of persons who register. At the beginning of the meeting, the Board will post a list of speakers at the entrance to the meeting room. Anyone who wishes to comment or provide technical information or data may do so in writing, either in lieu of, or in addition to, making an oral presentation. The Board Members may question presenters to the extent deemed appropriate. Public participation in the meeting will be subject to the participation criteria posted on the Board's Web site. Written comments and documents will be accepted at the meeting or may be sent to the Board's Washington, DC, office. The Board will hold the meeting record open until October 26, 2017, for the receipt of additional materials.

The meeting will be presented live through internet video streaming. A link to the presentation will be available on the Board's Web site (*www.dnfsb.gov*) and a recording will be posted soon after. A transcript of these sessions and the associated correspondence will be made available on the Board's Web site. The Board specifically reserves its right to further schedule and otherwise regulate the course of the meeting, to recess, reconvene, postpone, or adjourn the meeting, conduct further reviews, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

CONTACT PERSON FOR MORE INFORMATION: Glenn Sklar, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (800) 788–4016.

Dated: September 15, 2017.

Sean Sullivan,

Chairman.

[FR Doc. 2017–20160 Filed 9–18–17; 4:15 pm]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Extension of the Application Deadline Date for the Fiscal Year 2017; Promise Neighborhoods Program Grant Application

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice.

SUMMARY: The Acting Assistant Deputy Secretary for Innovation and Improvement extends, for certain prospective eligible applicants described elsewhere in this notice, the deadline date for transmittal of applications for new awards for fiscal year (FY) 2017 under the Promise Neighborhoods program, Catalog of Federal Domestic Assistance Number 84.215N. The Acting Assistant Deputy Secretary takes this action to allow more time for the preparation and submission of applications by prospective eligible applicants affected by the severe storms and flooding beginning on August 25, 2017, in Texas or Louisiana.

The extension of the application deadline date for this competition is intended to help affected eligible applicants compete fairly with other eligible applicants under this competition.

DATES: Deadline for Transmittal of Applications: October 6, 2017. Deadline for Intergovernmental Review: December 6, 2017.

FOR FURTHER INFORMATION CONTACT: Adrienne Hawkins, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W256, Washington, DC 20202. Telephone: (202) 453–5638. Email address: *PromiseNeighborhoods@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On July 21, 2017, we published in the **Federal Register** (82 FR 33881) a notice inviting applications for new awards for FY 2017 for the Promise Neighborhoods competition (NIA). The application deadline in the NIA was September 5, 2017. We are extending this competition for applicants in Texas or Louisiana in order to allow applicants more time to prepare and submit their applications.

Eligibility: The extension of the application deadline date in this notice applies to eligible applicants under the Promise Neighborhoods program that are located in Texas or Louisiana.

In accordance with the NIA, an eligible applicant for the Promise Neighborhoods program:

(1) Is representative of the geographic area proposed to be served;

(2) Is one of the following:

(a) A nonprofit organization that meets the definition of a nonprofit under 34 CFR 77.1(c), which may include a faith-based nonprofit organization.

(b) An institution of higher education as defined by section 101(a) of the Higher Education Act of 1965, as amended.

(c) An Indian tribe (as defined in the NIA);

(3) Currently provides at least one of the solutions from the applicant's proposed continuum of solutions in the geographic area proposed to be served; and

(4) Operates or proposes to work with and involve in carrying out its proposed project, in coordination with the school's local educational agency (LEA), at least one public elementary or secondary school that is located within the identified geographic area that the grant will serve.

In the case of an eligible applicant that is a partnership, the extension of the application deadline date applies if any of the entities required to be part of the partnership (*i.e.,* a nonprofit organization, an LEA, or a consortium of schools) are located in Texas or Louisiana.

An eligible applicant submitting an application under the extended deadline must provide a certification in its application that it meets the criteria for doing so and be prepared to provide appropriate supporting documentation, if requested. If such an eligible applicant is submitting its application electronically, the submission of the application serves as the eligible applicant's attestation that it meets the

criteria for submitting an application by the extended deadline.

Note: All information in the NIA published on July 21, 2017 (82 FR 33881) for this competition remains the same, except for the deadline date.

Program Authority: The Promise Neighborhoods program is authorized under section 4624 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA) (20 U.S.C. 7273–7274).

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: September 15, 2017.

Margo Anderson,

Acting Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2017–20070 Filed 9–19–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CAC–051]

Notice of Petition for Waiver of Johnson Controls, Inc. (JCI) From the Department of Energy Central Air Conditioners and Heat Pumps Test Procedure, and Granting of Interim Waiver

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver, notice of grant an interim waiver, and request for comment.

SUMMARY: This notice announces receipt of and publishes a petition for waiver from JCI seeking an exemption from specified portions of the U.S. Department of Energy (DOE) test procedure for determining the efficiency of central air conditioners (CAC) and heat pumps (HP). According to JCI, testing its CAC and HP basic models that use variable-speed, oil-injected scroll compressors (VSS systems) with only a 20-hour break-in period produces results unrepresentative of their true energy consumption characteristics, and would provide materially inaccurate comparative data. JCI requests that in lieu of the 20-hour break-in limit, it be permitted to test its VSS systems with a 72-hour break-in period. This notice also grants JCI an interim waiver from the DOE CAC and HP test procedure for its specified basic models, subject to use of the alternative test procedure as set forth in this notice. DOE solicits comments, data, and information concerning JCI's petition and its suggested alternate test procedure.

DATES: DOE will accept comments, data, and information with respect to the JCI Petition until October 20, 2017.

ADDRESSES: You may submit comments, identified by case number ''CAC–051'' and Docket number ''EERE–2017–BT–WAV–0037,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: JohnsonControlsCAC051waiver@ee.doe.gov* Include the case number [Case No. CAC–051] in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Lucy Debutts, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Petition for Waiver Case No. CAC–051, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., 6th Floor, Washington, DC, 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

The docket Web page can be found at *http://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0037.* The docket Web page will contain simple instruction on how to access all documents, including public comments, in the docket.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

FOR FURTHER INFORMATION CONTACT: Ms. Lucy Debutts, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *AS_Waiver_Requests@ee.doe.gov.*

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–9496. Email: *peter.cochran@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, which includes central air conditioners and heat pumps.[2] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B requires the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for central air conditioners and heat pumps is contained in 10 CFR part 430, subpart B, appendix M (referred to in this notice

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA), Public Law 114–11 (April 30, 2015).

as ''appendix M'') and 10 CFR part 429.16.

DOE's regulations set forth at 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a covered product when the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that either (1) prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii).

DOE may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. 10 CFR 430.27(l).

The waiver process also allows DOE to grant an interim waiver if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1). When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

II. JCI's Petition for Waiver of Test Procedure and Application for Interim Waiver

On May 17, 2017, JCI filed a petition for waiver and an application for interim waiver from the applicable CAC and HP test procedure set forth in 10 CFR part 430, subpart B, appendix M and 10 CFR 429.16. On June 2, 2017, JCI supplemented its petition with additional information. According to JCI, testing its CAC and HP basic models that use variable-speed, oil-injected scroll compressors (VSS systems) with only a 20-hour break-in period produces results unrepresentative of their true energy consumption characteristics, and would provide materially inaccurate comparative data. JCI requests that in lieu of the 20-hour break-in limit, it be permitted to test its VSS systems with a 72-hour break-in period. Consequently, JCI seeks to use an alternate test procedure to test and rate specific CAC and HP basic models, which increases the break-in time limit stipulated in section 3.1.7 of Appendix M to 10 CFR part 430, subpart B.

JCI also requests an interim waiver from the existing DOE test procedure. An interim waiver may be granted if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 430.27(e)(2).

DOE has reviewed the test data provided by JCI and agrees that it demonstrates that the specified VSS system models that are the subject of the waiver have compressors that may require more than the 20 hours of break-in time allowed by the DOE test procedure. The oil injected into the oil-injected scroll compressors increases the coverage of the viscous oil layer between mating surfaces of the scroll. This is presumably its purpose, *i.e.,* to provide additional sealing in the gaps of the mating surfaces to improve compressor volumetric efficiency (relationship between displacement rate and volume flow rate of refrigerant drawn into the compressor). By enhancing this oil layer, the direct contact between irregularities in the surfaces may also be reduced, which would slow the wearing process that smooths out these irregularities, which is the break-in process. For this reason, oil injected compressors are expected to require additional break-in time.

DOE understands that absent an interim waiver, JCI's products cannot be tested and rated for energy consumption on a basis representative of their true energy consumption characteristics. DOE has reviewed the alternate procedure suggested by JCI and concludes that it will allow for the accurate measurement of the energy use of these CAC and HP basic models based on the information and data supplied by JCI.

Consequently, DOE has determined that JCI's petition for waiver will likely be granted. Furthermore, DOE has determined that it is desirable for public policy reasons to grant JCI immediate relief pending a determination of the petition for waiver.

III. Summary of Grant of an Interim Waiver

For the reasons stated above, DOE has granted JCI's application for interim waiver from testing for its specified CAC and HP basic models. The substance of DOE's Interim Waiver Order is summarized below.

JCI is required to use the alternate test procedures set forth in this notice to test and rate certain CAC and HP basic models that use certain variable-speed, oil-injected scroll compressors (VSS systems). Specifically, this requirement applies to JCI CAC and HP basic models that (1) have a VSS system that use one of the compressor models JCI specified to DOE on June 2, 2017 with a request for confidential treatment and (2) include the following outdoor unit models in combinations, listed by brand name:

	Brand				
	York	Coleman	Luxaire	Fraser-Johnston	Champion
Air Conditioners	YXV24B21	AC21B2421	AL21B2421	AL21B2421	AL21B2421
	YXV36B21	AC21B3621	AL21B3621	AL21B3621	AL21B3621
	YXV48B21	AC2134821	AL21B4821	AL21B4821	AL21B4821
	YXV60B21	AC21B6021	AL21B6021	AL21B6021	AL21B6021
Heat Pumps	YZV24B21	HC20B2421	HL20B2421	HL20B2421	HL20B2421
	YZV36B21	HC20B3621	HL20B3621	HL20B3621	HL20B3621
	YZV48B21	HC20B4821	HL20B4821	HL20B4821	HL20B4821
	YZV60B21	HC20B6021	HL20B6021	HL20B6021	HL20B6021

JCI is permitted to make representations about the energy use of these basic models for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions set forth in the alternate test procedure and such representations fairly disclose the results of such testing in accordance with 10 CFR 429.16.

DOE makes decisions on waivers and interim waivers for only those basic models specifically set out in the petition, and in this case only those models that use the specified compressors, not future models that may be manufactured by the petitioner. JCI may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 430.27(g). In addition, DOE notes that granting of an interim waiver or waiver does not release a petitioner from the certification requirements set forth at 10 CFR 429. See also 10 CFR 430.27(a) and (i).

The interim waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(h) and (l). Furthermore, this interim waiver is conditioned upon the presumed validity of statements, representations, and documents provided by the petitioner. DOE may rescind or modify a waiver or interim waiver at any time upon a determination that the factual basis underlying the petition for waiver or interim waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic model's true energy consumption characteristics. See 10 CFR 430.27(k).

IV. Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures to make representations about the energy consumption and energy consumption costs of products covered by the statute. (42 U.S.C. 6293(c)) Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their products and to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 430.27, DOE will consider setting an alternate test procedure for JCI in a subsequent Decision and Order.

In its petition, JCI proposes that the basic models listed in the petition be tested according to the test procedure for residential CAC and HP prescribed by DOE at 10 CFR part 430, subpart B, appendix M, except that the 20-hour break-in period maximum in section 3.1.7 of appendix M be replaced with a 72-hour maximum. With JCI's proposed alternative test procedure, this section of the test procedure reads as follows:

3.1.7 Test Sequence

Manufacturers may optionally operate the equipment under test for a ''break-in'' period, not to exceed 72 hours, prior to conducting the test method specified in this section. A manufacturer who elects to use this optional compressor break-in period in its certification testing should record this information (including the duration) in the test data underlying the certified ratings that are required to be maintained under 10 CFR 429.71. When testing a ducted unit (except if a heating- only heat pump), conduct the A or A_2 Test first to establish the cooling full-load air volume rate. For ducted heat pumps where the heating and cooling full-load air volume rates are different, make the first heating mode test one that requires the heating full-load air volume rate. For ducted heating-only heat pumps, conduct the H1 or $H1_2$ Test first to establish the heating full-load air volume rate. When conducting a cyclic test, always conduct it immediately after the steady-state test that requires the same test conditions. For variable-speed systems, the first test using the cooling minimum air volume rate should precede the E_V Test, and the first test using the heating minimum air volume rate must precede the $H2_V$ Test. The test laboratory makes all other decisions on the test sequence.

V. Summary and Request for Comments

Through this notice, DOE announces receipt of JCI's petition for waiver from the DOE test procedure for certain CAC and HP basic models and grants JCI an interim waiver from the test procedure for the specified basic models that use variable- speed, oil-injected scroll compressors (VSS systems). DOE is publishing JCI's petition for waiver in its entirety, pursuant to 10 CFR 439.27(b)(1)(iv). The petition contains no confidential information. The petition includes a suggested alternate test procedure, as specified in section IV of this notice, to determine the energy consumption of JCI's specified CAC and HP models. DOE may consider including this alternate procedure in a subsequent Decision and Order.

DOE solicits comments from interested parties on all aspects of the petition, including the suggested alternate test procedure. More specifically, DOE is seeking test data and additional information on the performance on CAC and HP basic models with VSS compressors as well as the VSS compressor performance information as a function of time. Pursuant to 10 CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Steve Tice, UPG Vice-President, Engineering, Unitary Products, Johnson Controls, Inc., 3110 N. Mead St., Wichita, KS 67219. All comment submissions must include the agency name and Case Number CAC–051 for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies to DOE: One copy of the document marked ''confidential'' with all of the information believed to be confidential included, and one copy of the document marked ''non-confidential'' with all of the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Issued in Washington, DC, on September 13, 2017.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Johnson Controls, Inc.
3110 N. Mead St.
Wichita, KS 67219
Tel 316–239–2925 Fax 316–832–6598

May 17, 2017

VIA EMAIL: *AS_Waiver_Requests@ee.doe.gov*

Ashley Armstrong
Building Technologies Program
Office of Energy Efficiency and Renewable Energy
U.S. Department of Energy
Mailstop EE–5B
1000 Independence Avenue SW.
Washington, DC 20585–0121

RE: Petition for Waiver and Interim Waiver of 20 Hour Break-In Period Limit for Certain JCI Central Air Conditioners and Heat Pumps With Variable Speed Compressors

Dear Ms. Armstrong: Pursuant to 10 CFR 430.27, Johnson Controls, Inc. (JCI) respectfully submits this petition for waiver, and request for interim waiver,[1] of the requirement in Section 3.1.7 of the test procedure for central air conditioners (CAC) and heat pumps (HP) found at Appendix M to Subpart B of 10 CFR part 430 that limits an optional compressor ''break-in'' period to a maximum of 20 hours before testing under Appendix M (the ''20 Hour Break-In Limit'').[2] Specifically, JCI seeks waiver of the 20 Hour Break-In Limit for its central air conditioner and heat pumps with variable speed systems that use oil-injected scroll compressors (VSS systems), because testing these systems with only a 20-hour break-in period produces results unrepresentative of their true energy consumption characteristics, and would provide materially inaccurate comparative data.[3] As explained below, JCI requests that in lieu of the 20 Hour Break-In Limit, it be permitted to test its VSS systems with a 72-hour break-in period.

I. Johnson Controls, Inc.

Johnson Controls, Inc. is a diversified equipment and technology company with its operational headquarters in Milwaukee, Wisconsin and approximately 140,000 employees located around the globe. Our employees provide intelligent buildings, energy efficient solutions and integrated infrastructure to optimize energy efficiency and to create the smart buildings and communities of the future. Through its Unitary Product Group division, JCI manufactures and sells central air conditioner and heat pump systems for residential use, including high efficiency variable speed systems. These products are manufactured in the United States, in Wichita, Kansas.

II. Background

A ''break-in'' period contemplates the running of equipment for a period of time before beginning of an efficiency test.[4] DOE has found that a ''break-in period is particularly important for scroll compressors, which may be less efficient when first started and may require time to warm up to achieve optimal performance. Once the compressor is broken in, the performance should be more representative of the actual field performance.'' [5] Break-in allows ''mating'' parts to wear against each other, which results in reduced friction and leakage. Until this initial wear has occurred, the moving parts in the compressor generate greater friction when they contact each other, which decreases efficiency, and the seals between chambers that compress or expand the refrigerant may have greater leakage between the chambers, which reduces efficiency. Oil injection technology improves system efficiency, but the oil in the scroll elements prolongs the time required for this initial wear, which is needed to achieve nominal efficiency.

Section 3.1.7 of Appendix M to 10 CFR part 430, Subpart B provides that ''[m]anufacturers may optionally operate the equipment under test for a ''break-in'' period, not to exceed 20 hours,'' provided that the manufacturer reports the break-in period used in any certification to DOE.[6]

III. Basic Models for Which Waiver Is Requested

JCI requests a waiver from the 20 Hour Break-In Limit for its split-system CAC and HP basic models that use variable speed scroll compressors with an oil-injection system. Specifically, JCI requests waiver for all basic models that include the following outdoor unit models in combinations, listed by brand name:

	York	Coleman	Luxaire	Fraser-Johnston	Champion
AC	YXV24B21	AC21B2421	AL21B2421	AL21B2421	AL21B2421
	YXV36B21	AC21B3621	AL21B3621	AL21B3621	AL21B3621
	YXV48B21	AC21B4821	AL21B4821	AL21B4821	AL21B4821
	YXV60B21	AC21B6021	AL21B6021	AL21B6021	AL21B6021
HP	YZV24B21	HC20B2421	HL20B2421	HL20B2421	HL20B2421
	YZV36B21	HC20B3621	HL20B3621	HL20B3621	HL20B3621
	YZV48B21	HC20B4821	HL20B4821	HL20B4821	HL20B4821
	YZV60B21	HC20B6021	HL20B6021	HL20B6021	HL20B6021

The variable speed scroll compressors used in these systems are optimized for high-efficiency residential air conditioner and heat pump systems in the 2-ton to 5-ton range.

IV. Grounds for Test Procedure Waiver

DOE's regulations provide for granting of a test procedure waiver where testing of a basic model under the prescribed test procedures would ''evaluate the basic model in a manner so unrepresentative of its true energy . . . consumption characteristics as to provide materially inaccurate comparative data.'' [7] JCI seeks a waiver from the 20 Hour Break-In Limit for its VSS systems because limiting the optional break-in period to 20 hours results in testing that provides materially inaccurate data unrepresentative of the true energy efficiency characteristics of these systems.

JCI's VSS systems require significantly more than 20 hours of break-in to reach design efficiency, which is the level of efficiency that is representative of system performance over the lifetime of the VSS system, and would be more appropriately tested with a break-in period of 72 hours. DOE established the 20 hour Break-in Limit to reduce test variability,[8] but because variable speed compressors with oil injection do not completely wear in within 20 hours, performance variability for VSS systems actually increases when break-in is limited to 20 hours. As explained below, JCI conducted testing demonstrating that a 20-hour break-in period does not allow for sufficient break-in for its VSS systems to reach representative efficiency, but that a 72- hour break-in period does.

JCI conducted baseline VSS system performance tests under Appendix M after 20 hours of break-in—the maximum currently permitted under Appendix M.[9] JCI then ran the same performance tests on the same units after longer break-in periods, of 44, 68, and 92 hours. JCI's testing shows that for the tested products, measured efficiency increased significantly with break-in periods longer than 20 hours. As is shown in the following sections, the Ev, B1, and F1 tests show substantial gains in efficiency with longer break-in periods.

Table 1 below shows testing data for a 3-ton air conditioning unit with a variable speed scroll compressor with oil injection tested after 20 hours of break-in. The unit was started at A2 conditions and instrumentation was verified before starting the A2 test with 20 hours of accumulated compressor run time. Completion of the A2 test was followed by the B2, B1, Ev, and F1 tests.

[1] This petition for waiver and request for interim waiver is a substitute for that originally submitted by Johnson Controls, Inc. on May 2, 2017 on the same break-in period issue.

[2] Section 3.1.7 of Appendix M to Subpart B of 10 CFR part 430.

[3] 10 CFR 430.27(a)(1).

[4] Energy Conservation Standards and Test Procedures for Commercial Heating, Air-Conditioning, and Water- Heating Equipment, Proposed Rule, 77 FR 2355, 2374 (Jan. 17, 2012).

[5] *Id.*

[6] Section 3.1.7 of Appendix M to Subpart B of 10 CFR part 430 (as revised by DOE in the June 2016 Final Rule).

[7] 10 CFR 430.27(a)(1).

[8] Final Rule at 1445 (''[T]he establishment of the 20-hour limit is to maintain test repeatability among labs regardless of who conducts the test.'')

[9] These test results are representative of the break-in characteristics of all models for which JCI seeks waiver here.

JCI then operated the test system for an additional 24 hours, for a total compressor run time of 44 hours, to determine if an increased break-in period improved performance. The results in Table 1 show the calculated SEER improved by 0.77 with this additional 24 hour period of break in. The most substantial gain was found in the EV, B1 and F1 tests.

I. TABLE 1—3-TON AC SYSTEM TESTING, WITH 20 HOUR BREAK-IN AND 44 HOUR BREAK-IN

Calorimeter 20 hr break-in compressor							Increased break-in run 24 hours						
Test	ID capacity	Watts	EER	CFM	Static	ID watts	Test	ID capacity	Watts	EER	CFM	Static	ID watts
A2	35719	2597.1	13.75	1160	0.24	199.5	A2	35751	2545.7	14.04	1159	0.23	190.3
B2	38054	2243.1	16.96	1162	0.24	198.4	B2	37779	2213.8	17.07	1156	0.24	191.6
Ev	19235	1074.4	17.90	708	0.16	71.6	Ev	19187	1032.3	18.59	707	0.15	67.5
B1	10287	544.6	18.89	428	0.26	55.4	B1	10276	547.3	18.78	420	0.20	46.2
F1	11112	348.4	31.89	420	0.24	51.6	F1	11156	324.8	34.34	428	0.22	49.3
		SEER	19.30						SEER	20.07			

JCI then operated the test system for two more 24-hour break-in periods and collected system performance data after each break-in period. A second system was also installed into a psychrometric test cell and tested after the same intervals of compressor run time. As shown in Table 2, the performance data from both samples shows improvement after the first two additional 24-hour break-in periods, tapering off in the third 24-hour break-in period. With an additional 48 hours of break-in, there is an average of 7.5% improvement in SEER across both tests. Sample 1 improved from a SEER of 19.30 to 20.46 and sample 2 improved from a SEER of 18.97 to 20.70. This average gain of more than 1.0 SEER is significant in the current marketplace.

II. TABLE 2—3-TON AC SYSTEM PERFORMANCE WITH INCREASING BREAK-IN PERIODS

Sample 1					Sample 2				
Test	20 hr	44 hr	68 hr	92 hr	Test	20 hr	44 hr	68 hr	92 hr
A2	13.75	14.04	13.98	14.03	A2	13.14	13.73	13.83	13.88
B2	16.96	17.07	17.13	17.22	B2	16.21	16.91	16.91	17.08
Ev	17.90	18.59	19.04	20.16	Ev	17.52	19.01	19.32	19.34
B1	18.89	18.78	20.52	22.73	B1	17.75	22.10	21.45	21.58
F1	31.89	34.34	34.86	36.06	F1	32.92	37.77	35.92	35.83
SEER	19.30	20.07	20.46	21.41	SEER	18.97	20.59	20.70	20.73

Additional unit sizes were tested using the same procedure as described above. As shown in Tables 3 and 4 below, results from those additional tests show the same pattern—increased efficiency with longer break-in periods beyond 20 hours.

III. TABLE 3—4-TON AC SYSTEM PERFORMANCE WITH INCREASING BREAK-IN PERIODS

Sample 1					Sample 2				
Test	20 hr	44 hr	68 hr	92 hr	Test	20 hr	44 hr	68 hr	92 hr
A2	13.03	13.35	13.42	13.47	A2	13.31	13.60	13.26	13.52
B2	15.93	16.21	16.43	16.45	B2	16.39	16.65	16.54	16.96
Ev	18.60	19.08	19.11	19.30	Ev	19.55	18.91	19.32	19.81
B1	19.96	21.04	21.50	21.28	B1	21.41	19.43	20.30	21.90
F1	36.87	37.63	38.56	36.95	F1	35.50	37.16	36.06	38.52
SEER	20.07	20.54	20.67	20.67	SEER	20.76	20.46	20.64	21.29

TABLE 4—5-TON AC SYSTEM PERFORMANCE WITH INCREASING BREAK-IN PERIODS

Sample 1					Sample 2				
Test	20 hr	44 hr	68 hr	92 hr	Test	20 hr	44 hr	68 hr	92 hr
A2	13.12	13.18	13.20	13.27	A2	13.03	13.24	13.23	13.23
B2	16.05	16.08	16.18	16.30	B2	15.81	16.04	15.90	16.24
Ev	19.23	19.51	19.68	19.65	Ev	19.07	19.48	19.49	19.95
B1	22.15	23.20	23.80	24.02	B1	22.19	23.12	23.05	23.96
F1	36.94	38.00	38.28	37.45	F1	35.55	37.50	37.96	38.93
SEER	20.67	21.05	21.22	21.18	SEER	20.45	20.98	21.02	21.52

In evaluating this test data, JCI determined that the increase in system efficiency and reduced test variability that occurs with the lengthier break-in periods was principally due to a reduction in required compressor power during the test. Figures 5 and 6 show the decrease in compressor watts compared to the 20-hour baseline compressor for 3-ton and 5-ton AC systems. For both systems, results show a consistent reduction in watts consumed as the break-in time of the compressor is increased. This is most significant at the Ev, B1 and F1 test conditions.

IV. Figure 5: Decrease in Compressor Watts (3 Ton AC) With 3 Additional 24-Hour Break-In Periods, Relative to 20-Hour Break-In Baseline

See the following Web site for figure 5: *https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0037.*

Figure 6: Decrease in Compressor Watts (5 Ton AC) With 3 Additional 24-Hour Break-In Periods, Relative to 20-Hour Break-In Baseline

See the *following Web site for figure 6: https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0037.*

These test results show that a VSS system is not fully broken in at 20 hours, and that rating such a system with only 20-hour break-in period can understate a system's SEER rating performance by 1 to 2 SEER (or approximately 5% to 10%). Because the 20 Hour Break-In Limit does not allow sufficient time for full break-in of VSS systems, the efficiency rating of a VSS system measured under Appendix M falls below the actual efficiency level at which the system will operate for the great majority of its time in service. JCI is thus unable to represent, on the basis of Appendix M testing, the full efficiency at which its VSS systems will operate. To achieve a particular efficiency rating under the Appendix M test method, JCI is forced to overdesign its VSS systems to meet an even higher target efficiency rating after full break-in. In short, the 20 Hour Break-In Limit in Appendix M results in the underrating of JCI's VCC systems, and thus produces materially inaccurate data about the efficiency of VSS systems for comparison purposes, leaving homeowners without the information needed to objectively evaluate the benefits of such systems.

This underrating under Appendix M for JCI's VSS systems has significant consequences in the marketplace. Because of underrating due to the 20 Hour Break-In Limit, the full efficiency advantage of JCI's VSS systems will not be apparent versus lower-efficiency full stage compressor products, for which the 20 Hour Break-In Limit does not bias results. Consumers for whom central air conditioner measured efficiency is an important factor will be misled about the merits of VSS systems on the basis of measured efficiency under Appendix M. Although the JCI models at issue are very efficient, and perform well above the applicable minimum efficiency standards, accurate ratings for high efficiency products such as these are important for purposes of, for instance, determining eligibility for Energy Star, utility rebates, tax credits, and green building recognition.

I. Alternative Test Procedures

DOE's Appendix M test procedure, as currently promulgated but with the option of an extended, 72-hour break-in period, constitutes the appropriate alternate test procedure that will evaluate the performance of JCI's VSS systems in a manner representative of its energy characteristics. Therefore, JCI proposes to test the basic models for which it seeks waiver by applying the entirety of Appendix M to 10 CFR part 430, subpart B, with a single modification to Section 3.1.7, as shown below:

3.1.7 Test Sequence

Manufacturers may optionally operate the equipment under test for a ''break-in'' period, not to exceed ~~20~~*72* hours, prior to conducting the test method specified in this section. A manufacturer who elects to use this optional compressor break-in period in its certification testing should record this information (including the duration) in the test data underlying the certified ratings that are required to be maintained under 10 CFR 429.71. When testing a ducted unit (except if a heating- only heat pump), conduct the A or A_2 ~~Test first to establish the cooling~~ full-load air volume rate. For ducted heat pumps where the heating and cooling full-load air volume rates are different, make the first heating mode test one that requires the heating full-load air volume rate. For ducted heating-only heat pumps, conduct the H1 or $H1_2$ Test first to establish the heating full-load air volume rate. When conducting a cyclic test, always conduct it immediately after the steady-state test that requires the same test conditions. For variable-speed systems, the first test using the cooling minimum air volume rate should precede the E_V Test, and the first test using the heating minimum air volume rate must precede the $H2_V$ Test. The test laboratory makes all other decisions on the test sequence.

Thus, the only change would be to modify the maximum length of the optional break-in period for JCI's VSS systems. As required by Appendix M, JCI would report the break-in period used in its product compliance certifications.

II. Similar Products

JCI is aware of the following manufacturers of residential central air conditioners and heat pumps that offer VSS systems using scroll compressors with oil injection: Carrier Corporation, Daikin Industries, Goodman Manufacturing Co. LP, Lennox International Inc., Nortek Global HVAC, Rheem Sales Company, and Trane.

III. Petition for Interim Waiver

Pursuant to 10 CFR 430.27, JCI also requests an interim waiver of the 20 Hour Break-In Limit for the JCI VSS systems. DOE will grant an interim waiver if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver.[10] Interim relief is important to ensure that JCI can make materially accurate representations about the energy efficiency of its VSS systems in its certifications to DOE and marketing materials while DOE is considering the merits of JCI's petition for waiver.

Likely Success of the Petition for Waiver. For the reasons outlined above, JCI believes that there are strong arguments for granting the petition for waiver on the merits. Specifically, JCI testing of its VSS systems shows that a 72-hour break-in period produces test results that are more representative of the actual product efficiencies at which the VSS systems will operate over the lifetime of the product than those results obtained under the current 20 hour break-in period limit.

Competitive Disadvantage. If JCI must continue to comply with the 20 Hour Break-In Limit for its VSS systems, these systems will be disadvantaged in the market relative to other types central air conditioners and heat pumps for which a break-in period of 20 hours or less products results representative of actual operating efficiency. As shown above, the impact of the 20 Hour Break-In Limit on ratings is significant—it can reduce ratings by 1 to 2 SEER. The effects ~~of such depressed ratings in the~~ market can be significant.

Public Policy Reasons to Grant Interim Waiver. Without an interim waiver, consumers will continue to be exposed to materially inaccurate information about the energy consumption characteristics of JCI's VSS systems. This inaccurate information harms consumers (especially those seeking to evaluate very high efficiency CAC/HP products) and distorts markets. Further, underrating high efficiency products is inconsistent with the policy objectives of EPCA.

For all of these reasons, the Department should grant an interim waiver while it considers the petition for waiver set out above.

IV. Conclusion

For the reasons stated above, JCI respectfully requests that DOE grant this petition for waiver of the 20 Hour Break-In Limit with respect to its VSS systems. JCI further requests DOE to grant its request for an interim waiver while its petition for waiver is under consideration.

If you have any questions or would like to discuss this request, please contact me at (316) 832–6393, Chris Ware at (414) 524–5443, or Doug Smith of Van Ness Feldman, LLP at (202) 298–1902. We greatly appreciate your attention to this matter.

Sincerely,

Steve Tice,

UPG Vice-President, Engineering Unitary Products, Johnson Controls, Inc.
steven.a.tice@jci.com.

Cc: Johanna Jochum, Office of the General Counsel

[FR Doc. 2017–20032 Filed 9–19–17; 8:45 am]

BILLING CODE 6450–01–P

[10] 10 CFR 430.27(e)(2).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17–1029–001.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Tariff Amendment: 09/12/17 Negotiated Rates—Hartree

Partners, LP H–7090–89, Amendment to be effective 11/1/2017.

Filed Date: 9/12/17.

Accession Number: 20170912–5100.

Comments Due: 5 p.m. ET 9/25/17.

Docket Numbers: RP17–1039–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 09/12/17 Negotiated Rates—Freepoint Commodities LLC R–7250–20 to be effective 11/1/2017.

Filed Date: 9/12/17.

Accession Number: 20170912–5090.

Comments Due: 5 p.m. ET 9/25/17.

Docket Numbers: RP17–1040–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 09/12/17 Negotiated Rates—ENI Trading & Shipping Inc R–7825–04 to be effective 11/1/2017.

Filed Date: 9/12/17.

Accession Number: 20170912–5124.

Comments Due: 5 p.m. ET 9/25/17.

Docket Numbers: RP17–1041–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 09/12/17 Negotiated Rates—ENI Trading & Shipping Inc R7825–05 to be effective 11/1/2017.

Filed Date: 9/12/17.

Accession Number: 20170912–5125.

Comments Due: 5 p.m. ET 9/25/17.

Docket Numbers: RP17–1042–000.

Applicants: Alliance Pipeline L.P.

Description: § 4(d) Rate Filing: Brion Duvernay Name Change to be effective 10/1/2017.

Filed Date: 9/12/17.

Accession Number: 20170912–5141.

Comments Due: 5 p.m. ET 9/25/17.

Docket Numbers: RP17–498–003.

Applicants: Cameron Interstate Pipeline, LLC.

Description: Compliance filing Cameron Interstate Pipeline Compliance Filing to be effective 9/12/2017.

Filed Date: 9/12/17.

Accession Number: 20170912–5140.

Comments Due: 5 p.m. ET 9/25/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 13, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–19986 Filed 9–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–2457–000]

Rock Creek Wind Project, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Rock Creek Wind Project, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 4, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–20017 Filed 9–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–79–000]

Florida Gas Transmission Company, L.L.C.; Notice of Availability of the Environmental Assessment for the Proposed Wekive Parkway Relocation Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Wekiva Parkway Relocation Project, proposed by Florida Gas Transmission Company, L.L.C. (Florida Gas) in the above-referenced docket. Florida Gas requests authorization to abandon in place and relocate portions of their existing 12-inch Sanford Lateral and 26-inch Sanford Lateral Loop pipeline in Lake and Seminole Counties, FL, that conflict with construction of the Florida Department of Transportation (FDOT) Wekiva Parkway. The affected pipelines are to be relocated to new adjacent right-of-way abutting the north side of FDOT's Wekiva Parkway right-of-way.

The EA assesses the potential environmental effects of the construction and operation of the Wekiva Parkway Relocation Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC, on or before October 14, 2017.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP17–79–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on eRegister. You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on General Search, and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP17–79). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: September 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–20015 Filed 9–19–17; 8:45 am]

BILLING CODE 6717–01–P

[1] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–2462–000]

SunSea Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of SunSea Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 4, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email

FERCOnlineSupport@ferc.gov or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–20018 Filed 9–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–127–001; EL14–91–001.

Applicants: NextEra Energy Partners, LP.

Description: Notice of Change in Material Facts of NextEra Energy Partners, LP under EL14–91, et al.

Filed Date: 9/5/17.

Accession Number: 20170905–5166.

Comments Due: 5 p.m. ET 9/26/17.

Docket Numbers: EC17–176–000.

Applicants: El Cabo Wind LLC.

Description: Application for Authorization of Transactions under Section 203 of the FPA, and Requests for Shortened Comment Period, Expedited Action, Waivers, and Confidential Treatment of El Cabo Wind LLC.

Filed Date: 9/13/17.

Accession Number: 20170913–5125.

Comments Due: 5 p.m. ET 10/4/17.

Docket Numbers: EC17–177–000.

Applicants: Carson Cogeneration Company LP.

Description: Application for Prospective FPA Section 203 Authorization of Carson Cogeneration Company LP.

Filed Date: 9/14/17.

Accession Number: 20170914–5045.

Comments Due: 5 p.m. ET 10/5/17.

Docket Numbers: EC17–178–000.

Applicants: Five Points Solar Park LLC, Grand View PV Solar Two LLC, Three Peaks Power, LLC.

Description: Application for Authorization under Section 203 of the Federal Power Act and Requests for Confidential Treatment, Expedited Consideration, and Waivers of Five Points Solar Park LLC, et al.

Filed Date: 9/14/17.

Accession Number: 20170914–5088.

Comments Due: 5 p.m. ET 10/5/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2074–007; ER10–2097–009.

Applicants: Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company.

Description: Notice of Change in Status of Kansas City Power & Light Company, et al.

Filed Date: 9/14/17.

Accession Number: 20170914–5101.

Comments Due: 5 p.m. ET 10/5/17.

Docket Numbers: ER13–587–002.

Applicants: Carson Cogeneration Company LP.

Description: Notice of Non-Material Change in Status of Carson Cogeneration Company LP.

Filed Date: 9/14/17.

Accession Number: 20170914–5047.

Comments Due: 5 p.m. ET 10/5/17.

Docket Numbers: ER16–2192–000.

Applicants: Startrans IO, LLC.

Description: Report Filing: Refund Report to be effective N/A.

Filed Date: 9/14/17.

Accession Number: 20170914–5094.

Comments Due: 5 p.m. ET 10/5/17.

Docket Numbers: ER17–2185–002.

Applicants: Great Valley Solar 1, LLC.

Description: Tariff Amendment: Great Valley Solar 1, LLC Second Amendment to SFA Filing and Request to be effective 10/1/2017.

Filed Date: 9/14/17.

Accession Number: 20170914–5127.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2193–002.

Applicants: Great Valley Solar 1, LLC.

Description: Tariff Amendment: Great Valley Solar 1, LLC Second Amendment to LGIA CTA Filing and Request to be effective 10/1/2017.

Filed Date: 9/14/17.

Accession Number: 20170914–5129.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2471–000.

Applicants: ORNI 43 LLC.

Description: Baseline eTariff Filing: Petition for Approval of Initial Market-Based Rate Tariff to be effective 9/18/2017.

Filed Date: 9/14/17.

Accession Number: 20170914–5044.

Comments Due: 5 p.m. ET 10/5/17.

Docket Numbers: ER17–2472–000.

Applicants: ONGP LLC.

Description: Baseline eTariff Filing: Petition for Approval of Initial Market-Based Rate Tariff to be effective 9/18/2017.

Filed Date: 9/14/17.

Accession Number: 20170914–5057.

Comments Due: 5 p.m. ET 10/5/17.

Docket Numbers: ER17–2473–000.

Applicants: Tucson Electric Power Company.

Description: § 205(d) Rate Filing: Cancellation of Rate Schedule No. 48 to be effective 12/31/2017.

Filed Date: 9/14/17.

Accession Number: 20170914–5093.

Comments Due: 5 p.m. ET 10/5/17.

Docket Numbers: ER17–2474–000.

Applicants: Palmco Power DE, LLC.

Description: § 205(d) Rate Filing: Ancillary Sales to be effective 11/13/2017.

Filed Date: 9/14/17.

Accession Number: 20170914–5137.

Comments Due: 5 p.m. ET 10/5/17.

Docket Numbers: ER17–2475–000.

Applicants: Durgin and Crowell Lumber Company, Inc.

Description: Baseline eTariff Filing: Durgin and Crowell Lumber Company Inc. MBR Tariff Application to be effective 11/1/2017.

Filed Date: 9/14/17.

Accession Number: 20170914–5141.

Comments Due: 5 p.m. ET 10/5/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–20014 Filed 9–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17–1036–000.

Applicants: Stagecoach Pipeline & Storage Company LL.

Description: § 4(d) Rate Filing: Stagecoach Pipeline & Storage Company LLC—Remove Expired Agreements to be effective 10/15/2017.

Filed Date: 9/11/17.
Accession Number: 20170911–5061.
Comments Due: 5 p.m. ET 9/25/17.
Docket Numbers: RP17–1037–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 09/11/17 Negotiated Rates—Consolidated Edison Energy, Inc. H–2275–89 to be effective 11/1/2017.
Filed Date: 9/11/17.
Accession Number: 20170911–5063.
Comments Due: 5 p.m. ET 9/25/17.
Docket Numbers: RP17–1038–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 09/11/17 Negotiated Rates—Freepoint Commodities LLC R–7250–19 to be effective 11/1/2017.
Filed Date: 9/11/17.
Accession Number: 20170911–5102.
Comments Due: 5 p.m. ET 9/25/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–19985 Filed 9–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–256–000]

Texas Gas Transmission, LLC; Notice of Schedule for Environmental Review of the Morgan City and Youngsville Compression Station Abandoment Project

On April 26, 2017, Texas Gas Transmission, LLC (Texas Gas) filed an application in Docket No. CP17–256–000 requesting authorization pursuant to Section 7(b) of the Natural Gas Act, to abandon in-place certain compression facilities. The proposed project is known as the Morgan City and Youngsville Compressor Station Abandonment Project (Project), and would consist of abandoning in-place certain facilities at the Morgan City Compressor Station in Assumption Parish, Louisiana, and the Lafayette (referred to as ''Youngsville'') Compressor Station in Lafayette Parish, Louisiana. In addition, Texas Gas would relinquish the firm design capacity associated with the Project facilities.

On May 9, 2017, revised on May 19, 2017, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA, September 25, 2017
90-day Federal Authorization Decision Deadline, December 24, 2017

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Texas Gas proposes to abandon in-place the Morgan City Compressor Station consisting of one 9,100 horsepower gas-fired turbine compressor unit, a compressor building, yard and station piping, and appurtenant auxiliary facilities located in Assumption Parish, Louisiana, and abandon in-place one 9,100 horsepower gas-fired turbine compressor unit and its compressor building at the Lafayette (Youngsville) Compressor Station located in Lafayette Parish, Louisiana.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP17–256), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: September 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–20016 Filed 9–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–2470–000]

Red Dirt Wind Project, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Red Dirt Wind Project, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 4, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the

FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–20019 Filed 9–19–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9967–98–OW]

Clean Water Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intended Transfer of Confidential Business Information to Contractor.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential business information (CBI) collected from the steam electric power generating industry to ICF International (ICF). Transfer of the information will allow the contractor to support EPA in its reconsideration of effluent limitations guidelines and standards promulgated for the Steam Electric Power Generating Point Source Category on November 3, 2015. The information being transferred was or will be collected under the authority of section 308 of the Clean Water Act (CWA). Interested persons may submit comments on this intended transfer of information to the address noted below.

DATES: Comments on the transfer of data are due September 27, 2017.

ADDRESSES: Comments may be sent to M. Ahmar Siddiqui, Document Control Officer, Engineering and Analysis Division (4303T), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: M. Ahmar Siddiqui, Document Control Officer, at (202) 566–1044, or via email at *siddiqui.ahmar@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has transferred CBI to various contractors and subcontractors over the history of the effluent guidelines program under 40 CFR 2.302(h). EPA determined that this transfer was necessary to enable the contractors and subcontractors to perform their work in supporting EPA in planning, developing, and reviewing effluent guidelines and standards for certain industries.

Today, pursuant to 40 CFR 2.302(h)(2), EPA is giving notice that it will be transferring CBI to ICF (located in Fairfax, VA), which operates under contract number EP–C–16–011. The purpose of this transfer is to support economic analysis support for EPA in its reconsideration of effluent limitations guidelines and standards for the Steam Electric Power Generating Point Source Category established in 2015.

All EPA contractor, subcontractor, and consultant personnel are bound by the requirements and sanctions contained in their contracts with EPA and in EPA's confidentiality regulations found at 40 CFR part 2, subpart B. ICF will adhere to an EPA-approved security plan which describes procedures to protect CBI. ICF will apply the procedures in this plan to CBI previously gathered by EPA and to CBI that may be gathered in the future. The security plan specifies that contractor personnel are required to sign non-disclosure agreements and are briefed on appropriate security procedures before they are permitted access to CBI. No person is automatically granted access to CBI: A need to know must exist.

The information that will be transferred to ICF consists of information previously collected by EPA to support the development of effluent limitations guidelines and standards under the CWA for the Steam Electric Power Generating Point Source Category and any that may be collected in the future under the authority of section 308 of the CWA or voluntarily submitted (*e.g.,* in comments in response to a **Federal Register** notice), as is necessary to enable ICF to support EPA's reconsideration of the aforementioned effluent limitations guidelines and standards.

Dated: September 8, 2017.

Jeff Lape,

Acting Director, Office of Science and Technology, Office of Water.

[FR Doc. 2017–19930 Filed 9–19–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0393; FRL–9965–44]

Interim Registration Review Decision for 22 Sulfonylurea Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's interim registration review decision for the 22 sulfonylurea herbicide chemicals listed in the Table in Unit II of this Notice. It also announces the case closure for desmedipham (Case 2150 and Docket ID Number: EPA–HQ–OPP–2010–1044), Busan 1024 (case 5026 and Docket ID Number: EPA–HQ–OPP–2006–0243), Bis (trichloromethyl) sulfone (BTS) (Case 2055 and Docket ID Number: EPA–HQ–OPP–2011–0614), Perboric Acid (Case 5007 and Docket ID Number: EPA–HQ–OPP–2012–0006), and profenofos (Case 2540 and Docket ID Number: EPA–HQ–OPP–2008–0345) because all of the U.S. registrations for these pesticides have been canceled. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration; that is, the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in the table in Unit II of **SUPPLEMENTARY INFORMATION**.

For general information on the registration review program, contact: Dana Friedman, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection

Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–8827; email address: *friedman.dana@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**. *For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in the table in Unit II.

For general information on the registration review program, contact: Dana Friedman, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–8827; email address: *friedman.dana@epa.gov.*

II. What action is the Agency taking?

Pursuant to 40 CFR 155.58(c), this notice announces the availability of EPA's interim registration review decision for the 22 sulfonylurea chemicals listed in the Table in Unit II. A single interim decision document covers all 22 chemicals and is being cross-posted in each of the public dockets identified in the Table in Unit II.

Pursuant to 40 CFR 155.57, a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA has considered the chemicals listed in the following Table in light of the FIFRA standard for registration. The interim registration review decisions are supported by rationales included in the docket established for each chemical.

In addition to the interim registration review decision document, the registration review docket for the chemicals listed in the Table also includes other relevant documents related to the registration review of these cases. The proposed interim registration review decision was posted to the docket and the public was invited to submit any comments or new information.

TABLE 1—REGISTRATION REVIEW INTERIM DECISIONS BEING ISSUED

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Bensulfuron-methyl, 7216	EPA–HQ–OPP–2011–0663	Moana Appleyard, *appleyard.moana@epa.gov,* (703) 308–8175.
Chlorimuron-ethyl, 7403	EPA–HQ–OPP–2010–0478	Leigh Rimmer, *rimmer.leigh@epa.gov,* (703) 347–0553.
Chlorsulfuron, 0631	EPA–HQ–OPP–2012–0878	Miguel Zavala, *zavala.miguel@epa.gov,* (703) 347–0504.
Flazasulfuron, 7271	EPA–HQ–OPP–2011–0994	Ricardo Jones, *jones.ricardo@epa.gov,* (703) 347–0493.
Foramsulfuron, 7252	EPA–HQ–OPP–2012–0387	Christian Bongard, *bongard.christian@epa.gov,* (703) 347–0337.
Halosulfuron-methyl, 7233	EPA–HQ–OPP–2011–0745	Brittany Pruitt, *pruitt.brittany@epa.gov,* (703) 347–0289.
Imazosulfuron, 7281	EPA–HQ–OPP–2015–0625	Caitlin Newcamp, *newcamp.caitlin@epa.gov,* (703) 347–0325.
Iodosulfuron-methyl-sodium, 7253	EPA–HQ–OPP–2012–0717	Leigh Rimmer, *rimmer.leigh@epa.gov,* (703) 347–0553.
Mesosulfuron-methyl, 7277	EPA–HQ–OPP–2012–0833	Maria Piansay, *piansay.maria@epa.gov,* (303) 308–8063.
Metsulfuron-methyl, 7205	EPA–HQ–OPP–2011–0375	Brian Kettl, *kettl.brian@epa.gov,* (703) 347–0535.
Nicosulfuron, 7227	EPA–HQ–OPP–2012–0372	Nathan Sell, *sell.nathan@epa.gov,* (703) 347–8020.
Orthosulfamuron, 7270	EPA–HQ–OPP–2011–0438	Khue Nguyen, *nguyen.khue@epa.gov,* (703) 347–0248.
Primisulfuron-methyl, 7220	EPA–HQ–OPP–2011–0844	Christina Scheltema, *scheltema.christina@epa.gov,* (703) 308–2201.
Prosulfuron, 7235	EPA–HQ–OPP–2011–1010	Wilhelmena Livingston, *livingston.wilhelmena@epa.gov,* (703) 308–8025.
Rimsulfuron, 7218	EPA–HQ–OPP–2012–0178	Christian Bongard, *bongard.christian@epa.gov,* (703) 347–0337.
Sulfometuron-methyl, 3136	EPA–HQ–OPP–2012–0433	Caitlin Newcamp, *newcamp.caitlin@epa.gov,* (703) 347–0325.
Sulfosulfuron, 7247	EPA–HQ–OPP–2011–0434	Nicole Zinn, *zinn.nicole@epa.gov,* (703) 308–7076.
Thifensulfuron-methyl, 7206	EPA–HQ–OPP–2011–0171	Steven Snyderman, *snyderman.steven@epa.gov,* (703) 564–0370.
Triasulfuron, 7221	EPA–HQ–OPP–2012–0115	Margaret Hathaway, *hathaway.margaret@epa.gov,* (703) 305–5076.
Tribenuron-methyl, 7217	EPA–HQ–OPP–2010–0626	Linsey Walsh, *walsh.linsey@epa.gov,* (703) 347–8030.
Trifloxysulfuron-Sodium, 7260	EPA–HQ–OPP–2013–0409	Nicole Zinn, *zinn.nicole@epa.gov,* (703) 308–7076.
Triflusulfuron-methyl, 7236	EPA–HQ–OPP–2012–0605	Susan Bartow, *bartow.susan@epa.gov,* (703) 603–0065.

EPA addressed the comments or information received during the 60-day comment period for the proposed interim decisions in the discussion for each pesticide listed in the Table. Comments from the 60-day comment period that were received may or may not have affected the Agency's interim decision.

Pursuant to 40 CFR 155.58(c), the registration review case docket for the chemicals listed in the Table will remain open until all actions required in the interim decision have been completed.

Background on the registration review program is provided at: *http://www.epa.gov/pesticide-reevaluation.* Earlier documents related to the registration review of these pesticides are provided in the chemical specific dockets listed in the Table.

This document also announces the closure of the registration review case for Desmedipham (Case 2150 and Docket ID Number: EPA–HQ–OPP–2010–1044), Busan 1024 (case 5026 and Docket ID Number: EPA–HQ–OPP–2006–0243), Bis (trichloromethyl) sulfone (BTS) (Case 2055 and Docket ID Number: EPA–HQ–OPP–2011–0614), Perboric Acid (Case 5007 and Docket ID Number: EPA–HQ–OPP–2012–0006), and Profenofos (Case 2540 and Docket ID Number: EPA–HQ–OPP–2008–0345) because all of the U.S. registrations for these pesticides have been canceled.

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 24, 2017.

Charles Smith,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2017–19458 Filed 9–19–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2017–0518]

Notice of Intent To Prepare a Programmatic Environmental Assessment (PEA) for Financing Water and Wastewater Infrastructure Projects Pursuant to the Water Infrastructure Finance and Innovation Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Initiation of scoping.

SUMMARY: Consistent with the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA regulations, and EPA's regulations for implementing NEPA, EPA will prepare a Programmatic Environmental Assessment (PEA) to analyze the potential environmental impacts related to providing individual long-term, low-cost supplemental loans or loan guarantees for regionally and nationally significant eligible water and wastewater infrastructure projects under the Water Infrastructure Finance and Innovation Act (WIFIA) Program. EPA will use the information in the PEA to determine whether to prepare an Environmental Impact Statement (EIS). Future proposed actions under WIFIA that have potential impacts not sufficiently addressed by this PEA may require consideration in a separate NEPA document.

This notice initiates the scoping process by inviting comments from Federal, State, and local agencies, Indian tribes, and the public to help identify the environmental issues and reasonable alternatives to be examined in the PEA. The scoping process will inform the preparation and issuance of the PEA, which will be made available for public comment.

DATES: Comments must be received on or before October 20th, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2017–0518 to the *Federal eRulemaking Portal: https://www.regulations.gov/*. Please follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish public comments received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Alejandro Escobar, Water Infrastructure Division, WIFIA Program, Mail Code: 4201T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: 202–564–9047; email address *escobar.alejandro@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA is seeking public comment to determine the scope of projects, environmental issues and reasonable alternatives to be addressed in the PEA on providing loans or loan guarantees for water and wastewater infrastructure projects under the Water Infrastructure Finance and Innovation Act (WIFIA) Program.

The Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) established the WIFIA program, a federal credit program administered by EPA for eligible water and wastewater infrastructure projects. WIFIA and the WIFIA implementation rule (see 81 FR 91822) outline the eligibility and other requirements for prospective borrowers. Eligible borrowers are: Local, State, Tribal, and Federal government entities; partnerships and joint ventures; corporations and trusts; and Clean Water and Drinking Water State Revolving Fund (SRF) programs.

The WIFIA program can finance development and implementation activities for the following eligible projects: Wastewater conveyance and treatment projects that are eligible for the Clean Water SRF; drinking water treatment and distribution projects that are eligible for the Drinking Water SRF; enhanced energy efficiency projects at drinking water and wastewater facilities; brackish or seawater desalination, aquifer recharge, alternative water supply, and water recycling projects; drought prevention, reduction, or mitigation projects; acquisition of property if it is integral to the project or will mitigate the environmental impact of a project; and a combination of projects secured by a common security pledge or submitted under one application by an SRF program.

Eligible development and implementation activities are: Development phase activities, including planning, preliminary engineering, design, environmental review, revenue forecasting, and other pre-construction activities; construction, reconstruction, rehabilitation, and replacement activities; acquisition of real property or an interest in real property, environmental mitigation, construction contingencies, and acquisition of equipment; capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction.

EPA is currently planning to analyze two alternatives in the PEA: No Action, that is not providing financing; and the proposed action, which is providing financing to individual selected applicants. The PEA will focus its analysis on the potential environmental impacts of both alternatives. Subject areas to be addressed include, but are not limited to: Public health, water quality and quantity (surface and groundwater), historic properties, and threatened and endangered species.

Dated: September 14, 2017.

Kelly Knight,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2017–19956 Filed 9–19–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0026; FRL–9968–03]

Compliance Date Extension; Statutory Requirements for Substantiation of Confidential Business Information (CBI) Claims Under the Toxic Substances Control Act (TSCA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the compliance dates published in the **Federal Register** on January 19, 2017 and previously extended in the **Federal Register** on February 21, 2017. Specifically, the Agency set September 19, 2017 as the deadline by which submitters of TSCA submissions containing information claimed as CBI and filed between June 22, 2016 and March 21, 2017 had to submit to EPA the substantiation required by TSCA section 14(c)(3) for all information claimed as confidential, other than information exempt from substantiation pursuant to TSCA section 14(c)(2). The

Agency is now giving submitters until October 19, 2017 to provide the substantiations to EPA.

DATES: For TSCA submissions containing information claimed as CBI that was filed between June 22, 2016 and March 21, 2017, submitters have until October 19, 2017 to provide the required substantiation.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0026, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Scott Sherlock, Attorney Advisor, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

This announcement is directed to the public in general. It may, however, be of particular interest to you if you manufacture (defined by statute to include import) and/or process chemicals covered by TSCA (15 U.S.C. 2601 *et seq.*). This may include businesses identified by the North American Industrial Classification System (NAICS) codes 325 and 32411. Because this action is directed to the general public and other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What action is the agency taking?

EPA is extending the compliance dates published in the **Federal Register** on January 19, 2017, and previously extended in the **Federal Register** on February 21, 2017. Specifically, the Agency is now giving those submitters until October 19, 2017, to submit the substantiations required by TSCA section 14(c)(3). This extension is in response to concerns raised by industry stakeholders regarding the ability for companies to meet the previous September 19, 2017, deadline due to recent severe weather events. EPA is providing this additional flexibility for stakeholders because of the impacts of hurricanes Harvey and Irma.

For more detail on the requirements of TSCA section 14(c)(3) and how to comply with those requirements, see the **Federal Register** on January 19, 2017 (82 FR 6522) (FRL–9958–34) and the **Federal Register** on February 21, 2017 (82 FR 11218) (FRL–9959–39).

III. What is the agency's authority for taking this action?

EPA has determined that TSCA section 14(c)(3), 15 U.S.C. 2613(c)(3), requires an affected business to substantiate all TSCA CBI claims, except for information subject to TSCA section 14(c)(2), at the time the affected business submits the claimed information to EPA.

TSCA section 14(c)(1)(a) requires an affected business to assert a claim for protection from disclosure concurrent with submission of the information in accordance with existing or future rules. TSCA section 14(c)(3) in turn requires an affected business submitting a claim to protect information from disclosure to substantiate the claim, also in accordance with existing or future rules.

Because EPA published its interpretation that TSCA section 14(c)(3) requires up front substantiation after some companies had already asserted confidentiality claims subject to TSCA section 14(c)(3), the Agency set a future deadline for submission of substantiations pertaining to those submissions. This notice extends that deadline.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: September 14, 2017.

Nancy B. Beck,

Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–20046 Filed 9–15–17; 4:15 pm]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10209—Beach First National Bank, Myrtle Beach, South Carolina

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Beach First National Bank, Myrtle Beach, South Carolina (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Beach First National Bank on April 9, 2010. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Federal Deposit Insurance Corporation.

Dated: September 15, 2017.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–20002 Filed 9–19–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 82 FR 42682.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, September 14, 2017 AT 11:15 a.m.

CHANGES IN THE MEETING: The meeting took place at 1:15 p.m.

The Following Item Was Also Discussed: REG 2011–02 (Internet Communication Disclaimers).

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2017–20098 Filed 9–18–17; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS17–06]

Appraisal Subcommittee; Proposed Revised Policy Statements

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Proposed Revised Policy Statements.

SUMMARY: The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council requests public comment on a proposal to revise ASC Policy Statements (proposed Policy Statements). The proposed Policy Statements provide guidance to ensure State appraiser regulatory programs comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, and the rules promulgated thereunder. The proposed Policy Statements would supersede the current ASC Policy Statements. The ASC previously published the Proposed Revised Policy Statements on January 10, 2017, under Docket Number AS17–01. The comment period was scheduled to close on April 10, 2017. The ASC suspended the comment period in response to the White House Chief of Staff Memorandum titled Regulatory Freeze Pending Review, signed on January 20, 2017, pending review by the Office of Management and Budget (OMB). Technical edits for clarification have been made to the proposed Policy Statements since the initial publication, which are addressed below in Supplementary Information, section III, *Statement-by-Statement.*

DATES: Comments must be received on or before November 20, 2017.

ADDRESSES: Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. You may submit comments, identified by Docket Number AS17–06, by any of the following methods:

- *Federal eRulemaking Portal: https://www.Regulations.gov.* Follow the instructions for submitting comments. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *E-Mail: webmaster@asc.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 289–4101. Include docket number on fax cover sheet.
- *Mail:* Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1401 H Street NW., Suite 760, Washington, DC 20005.
- *Hand Delivery/Courier:* 1401 H Street NW., Suite 760, Washington, DC 20005.

In general, the ASC will enter all comments received into the docket and publish those comments on the Federal eRulemaking (Regulations.gov) Web site without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. At the close of the comment period, all public comments will also be made available on the ASC's Web site at *https://www.asc.gov* (follow link in ''What's New'') as submitted, unless modified for technical reasons.

You may review comments by any of the following methods:

- *Viewing Comments Electronically:* Go to *https://www.Regulations.gov.* Enter ''Docket ID AS17–06'' in the Search box and click ''Search.'' Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the ASC office, 1401 H Street NW., Suite 760, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595–7578.

FOR FURTHER INFORMATION CONTACT: James R. Park, Executive Director, at (202) 595–7575, or Alice M. Ritter, General Counsel, at (202) 595–7577, Appraisal Subcommittee, 1401 H Street NW., Suite 760, Washington, DC 20005.

SUPPLEMENTARY INFORMATION:

I. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI), established the ASC.[1] The purpose of Title XI is to provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions.[2] Pursuant to Title XI, one of the ASC's core functions is to monitor the requirements established by the States [3] for certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions. This is accomplished through periodic ASC Compliance Reviews of each State appraiser regulatory program (Appraiser Program) to determine compliance or lack thereof with Title XI, and to assess implementation of minimum requirements for credentialing of appraisers as adopted by the Appraiser Qualifications Board (*The Real Property Appraiser Qualification Criteria* or AQB Criteria).

Title XI as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) [4] expanded the ASC's core functions to include monitoring of the requirements established by States that elect to register and supervise the operations and activities of appraisal management companies [5] (AMCs). States electing to register and supervise AMCs must implement minimum requirements in accordance with the AMC Rule.[6] As a result, States with an

[1] The ASC Board is comprised of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System [Board], Consumer Financial Protection Bureau [CFPB], Federal Deposit Insurance Corporation [FDIC], Office of the Comptroller of the Currency [OCC], and National Credit Union Administration [NCUA]). The other two members are designated by the heads of the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA).

[2] Refers to any real estate related financial transaction which: (a) A federal financial institutions regulatory agency engages in, contracts for, or regulates; and (b) requires the services of an appraiser. (Title XI § 1121(4), 12 U.S.C. 3350.)

[3] The 50 States, the District of Columbia, and four Territories, which are the Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, and United States Virgin Islands.

[4] Public Law 111–203, 124 Stat. 1376.

[5] Title XI § 1103(a)(1)(B), 12 U.S.C. 3332.

[6] The Dodd-Frank Act added section 1124 to Title XI, *Appraisal Management Company Minimum Requirements,* which required the OCC, Board, FDIC, NCUA, CFPB, and FHFA to establish, by rule, minimum requirements for the registration and supervision of AMCs by States that elect to register and supervise AMCs pursuant to Title XI and the rules promulgated thereunder. (Title XI § 1124(a), 12 U.S.C. 3353(a).) Those rules were finalized and published on June 9, 2015, at 80 **Federal Register** 32658 with an effective date of August 10, 2015. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26)

AMC regulatory program (AMC Program) will be evaluated during the ASC's Compliance Review to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the AMC Rule. The amendments to Title XI by the Dodd-Frank Act also allow States with an AMC Program to add information about AMCs in their State to the National Registry of AMCs (AMC Registry). The proposed Policy Statements include guidance to the States regarding how AMC Programs will be evaluated during ASC Compliance Reviews.

II. Overview of Proposed Policy Statements

The ASC is issuing these proposed Policy Statements [7] in three parts to provide States with the necessary information to maintain their Appraiser Programs and AMC Programs in compliance with Title XI and the rules promulgated thereunder:

➢ Part A, *Appraiser Program*—Policy Statements 1 through 7 correspond with the categories that are: (a) Evaluated during the Appraiser Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the Appraiser Program.*

➢ Part B, *AMC Program*—Policy Statements 8 through 11 correspond with the categories that are: (a) Evaluated during the AMC Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the AMC Program.*

➢ Part C, *Interim Sanctions*—Policy Statement 12 sets forth required procedures in the event that interim sanctions are imposed against a State by the ASC for non-compliance in either the Appraiser Program or the AMC Program.

The proposal also includes two appendices:

1. Appendix A provides an overview of the Compliance Review process; and
2. Appendix B provides a glossary of terms.

III. Statement-by-Statement

The following provides a section by section highlight of changes presented in the proposed Policy Statements.

Introduction and Purpose

The ASC proposes to expand the introduction to include the monitoring of States that elect to register and supervise the operations and activities of AMCs, and to include an explanation of the proposed Policy Statements' three parts and appendices.

Part A: Appraiser Program

Policy Statement 1: Statutes, Regulations, Policies and Procedures Governing State Appraiser Programs

The ASC proposes to modify Policy Statement 1 to include a definition of trainee appraiser to better reflect how changes to Title XI affect Appraiser Programs with trainee requirements.

Policy Statement 2: Temporary Practice

The ASC proposes to modify Policy Statement 2 to clarify requirements for temporary practice and includes requirements to track temporary practice permits and maintain documentation.

Policy Statement 3: National Registry of Appraisers

The ASC proposes to modify Policy Statement 3 to clarify requirements regarding States' submission of registry fees and eligibility of appraisers for the Appraiser Registry.

Technical edits for clarification were made to Policy Statement 3 since the initial publication. The *Summary of Requirements* include the 5-day reporting requirement for disciplinary action consistent with the body of the Policy Statement, and clarify the requirement for States to adopt and implement a policy to protect right of access to the Appraiser Registry.

Policy Statement 4: Application Process

The ASC proposes to modify Policy Statement 4 to include additional guidance to States implementing AQB Criteria regarding the background of applicants for credentials and requires States to document applicant files with evidence supporting decisions made regarding individual appraisers. Policy Statement 4 as proposed also provides additional guidance on requirements for States to validate renewal requirements for appraisers and provides parameters for auditing education-related affidavits. Finally, Policy Statement 4 as proposed clarifies the requirement that States engage analysts who are knowledgeable about the *Uniform Standards of Professional Appraisal Practice* (USPAP) and document how the analysts are qualified.

Technical edits for clarification were made to Policy Statement 4 since the initial publication. The section titled *Processing of Applications* refers to ''documentation'' required rather than ''files.'' In the section titled ''*Validation Procedures, Objectives and Requirements,*'' the subsection ''*Selection of Work Product*'' is renamed ''*Experience Hours Validation*'' to more accurately reflect the content of the subsection, and compliance with USPAP is moved to the following subsection titled ''*USPAP Compliance*''; the subsection ''*Determination of Experience Time Periods*'' no longer restates AQB Criteria, but rather requires that time periods conform with AQB Criteria; and ''*Supporting Documentation*'' clarifies documentation required. The *Summary of Requirements* were modified to conform with these technical edits.

Policy Statement 5: Reciprocity

The ASC proposes to modify Policy Statement 5 to include a requirement that States obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity.

Policy Statement 6: Education

The ASC proposes to modify Policy Statement 6 to clarify that States may not continue to accept AQB approved courses after the AQB's expiration date unless the course content is reviewed and approved by the State.

Policy Statement 7: State Agency Enforcement

The ASC proposes to modify Policy Statement 7 to clarify the requirement that States consider USPAP violations when investigating a complaint whether or not USPAP violations were the basis for the complaint.

Technical edits for clarification were made to Policy Statement 7 since the initial publication. A footnote was added to clarify that the one-year period for resolution of complaints is not intended to have the impact of a statute of limitation.

Part B: AMC Program

As proposed, Policy Statements 8, 9 & 10 duplicate the provisions of Policy Statements 1, 3 & 7 to every extent possible. The standard language is intentional and will create better understanding of the Policy Statements by the States as they will be able to anticipate how to comply based on their understanding of the Policy Statements they have been following. Differences are discussed below.

Policy Statement 8: Statutes, Regulations, Policies and Procedures Governing State AMC Programs

The ASC proposes a new Policy Statement 8 to reflect the statutory provision that States are not required to establish an AMC Program, but clarify for those States that establish AMC

[7] These Policy Statements, adopted [date to be inserted when final], supersede all previous Policy Statements adopted by the ASC.

Programs the ASC oversight during ASC Compliance Reviews. As proposed, Policy Statement 8 reiterates that States with an AMC Program must: (1) Establish and maintain an AMC Program with the legal authority and mechanisms consistent with the AMC Rule; (2) impose requirements on AMCs consistent with the AMC Rule; and (3) enforce and document ownership limitations for State-registered AMCs. As proposed, Policy Statement 8 informs States that while they may have a more expansive definition of an AMC in their State statute, only AMCs that meet the federal definition in Title XI may be included on the AMC Registry.

Policy Statement 9: National Registry of AMCs (AMC Registry)

The ASC proposes a new Policy Statement 9 to clarify requirements for States with an AMC Program to maintain the AMC Registry in the same way they maintain the Appraiser Registry.

Technical edits for clarification were made to Policy Statement 9 since the initial publication. The *Summary of Requirements* includes the requirement for States to adopt and implement a policy to protect right of access to the AMC Registry.

Policy Statement 10: State Agency Enforcement

The ASC proposes a new Policy Statement 10 to clarify requirements for States' AMC enforcement programs in those States with an AMC Program.

Policy Statement 11: Statutory Implementation Period

The ASC proposes a new Policy Statement 11 to clarify the statutory implementation period and any extensions that may be granted.

Part C: Interim Sanctions

Policy Statement 12: Interim Sanctions

The ASC proposes a new Policy Statement 12 which modifies existing Policy Statement 8 to clarify interim sanctions which may be imposed on State Programs when those programs fail to be effective. The proposed procedures include due process provisions and rules of evidence, and would establish timeliness for proceedings.

IV. Request for Comment

The ASC seeks comment on all aspects of the proposed Policy Statements. In addition, the ASC requests comments on whether the proposed Policy Statements provide State Programs with the necessary information to understand the ASC's expectations during a Compliance Review.

The text of the proposed Policy Statements is as follows:

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Introduction and Purpose

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended (Title XI) established the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).[8] The purpose of Title XI is to provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions. Specifically, those appraisals shall be performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

Pursuant to Title XI, one of the ASC's core functions is to monitor the requirements established by the States [9] for certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions.[10] Title XI as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) [11] expanded the ASC's core functions to include monitoring of the requirements established by States that elect to

[8] The ASC board is made up of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System, Bureau of Consumer Financial Protection, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and National Credit Union Administration). The other two members are designated by the heads of the Department of Housing and Urban Development and the Federal Housing Finance Agency.

[9] See Appendix B, Glossary of Terms, for the definition of ''State.''

[10] See Appendix B, Glossary of Terms, for the definition of ''federally related transaction.''

[11] Public Law. 111–203, 124 Stat. 1376.

register and supervise the operations and activities of appraisal management companies [12] (AMCs).[13]

The ASC performs periodic Compliance Reviews [14] of each State appraiser regulatory program (Appraiser Program) to determine compliance or lack thereof with Title XI, and to assess implementation of minimum requirements for credentialing of appraisers as adopted by the Appraiser Qualifications Board (*The Real Property Appraiser Qualification Criteria* or AQB Criteria). As a result of the Dodd-Frank Act amendments to Title XI, States with an AMC regulatory program (AMC Program) will be evaluated during the Compliance Review to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by the

AMC Rule.[15]

The ASC is issuing these revised Policy Statements [16] in three parts to provide States with the necessary information to maintain their Appraiser Programs and AMC Programs in compliance with Title XI:

➢ Part A, *Appraiser Program*—Policy Statements 1 through 7 correspond with the categories that are: (a) Evaluated during the Appraiser Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the Appraiser Program.*

➢ Part B, *AMC Program*—Policy Statements 8 through 11 correspond with the categories that are: (a) Evaluated during the AMC Program Compliance Review; and (b) included in the *ASC's Compliance Review Report of the AMC Program.*

➢ Part C, *Interim Sanctions*—Policy Statement 12 sets forth required procedures in the event that interim sanctions are imposed against a State by the ASC for non-compliance in either the Appraiser Program or the AMC Program.

Part A: Appraiser Program

Policy Statement 1

Statutes, Regulations, Policies and Procedures Governing State Appraiser Programs

A. State Regulatory Structure

Title XI requires the ASC to monitor each State appraiser certifying and licensing agency for the purpose of determining whether each such agency has in place policies, practices and procedures consistent with the requirements of Title XI.[17] The ASC recognizes that each State may have legal, fiscal, regulatory or other factors that may influence the structure and organization of its Appraiser Program. Therefore, a State has flexibility to structure its Appraiser Program so long as it meets its Title XI-related responsibilities.

States should maintain an organizational structure for appraiser certification, licensing and supervision that avoids conflicts of interest. A State agency may be headed by a board, commission or an individual. State board [18] or commission members, or employees in policy or decision-making positions, should understand and adhere to State statutes and regulations governing performance of responsibilities consistent with the highest ethical standards for public service. In addition, Appraiser Programs using private entities or contractors should establish appropriate internal policies, procedures and safeguards to promote compliance with the State agency's responsibilities under Title XI and these Policy Statements.

B. Funding and Staffing

The Dodd-Frank Act amended Title XI to require the ASC to determine whether States have sufficient funding and staffing to meet their Title XI requirements. Compliance with this provision requires that a State must provide its Appraiser Program with funding and staffing sufficient to carry out its Title XI-related duties. The ASC evaluates the sufficiency of funding and staffing as part of its review of all aspects of an Appraiser Program's effectiveness, including the adequacy of State boards, committees, or commissions responsible for carrying out Title XI-related duties.

C. Minimum Criteria

Title XI requires States to adopt and/or implement all relevant AQB Criteria. Requirements established by a State for certified residential or certified general appraisers, as well as requirements established for licensed appraisers, trainee appraisers and supervisory appraisers must meet or exceed applicable AQB Criteria.

D. Federally Recognized Appraiser Classifications

State Certified Appraisers

''State certified appraisers'' means those individuals who have satisfied the requirements for residential or general certification in a State whose criteria for certification meet or exceed the applicable minimum AQB Criteria. Permitted scope of practice and designation for State certified residential or certified general appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

State Licensed Appraisers

''State licensed appraisers'' means those individuals who have satisfied the requirements for licensing in a State whose criteria for licensing meet or exceed the applicable minimum AQB Criteria. The permitted scope of practice and designation for State licensed appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

Trainee Appraisers

''Trainee appraisers'' means those individuals who have satisfied the requirements for credentialing in a State whose criteria for credentialing meet or exceed the applicable minimum AQB Criteria. Any minimum qualification requirements established by a State for individuals in the position of ''trainee appraiser'' or ''supervisory appraiser'' must meet or exceed the applicable minimum AQB Criteria. ASC staff will evaluate State designations such as ''registered appraiser,'' ''apprentice appraiser,'' ''provisional appraiser,'' or any other similar designation to determine if, in substance, such designation is consistent with a ''trainee appraiser'' designation and, therefore, administered to comply with Title XI. The permitted scope of practice and designation for trainee appraisers must be consistent with State and Federal laws, including regulations and supplementary guidance.

Any State or Federal agency may impose additional appraiser qualification requirements for trainee, State licensed, certified residential or

[12] Title XI § 1103(a)(1)(B), 12 U.S.C. 3332.

[13] See Appendix B, Glossary of Terms, for the definition of ''appraisal management company'' or AMC.

[14] See Appendix A, Compliance Review Process.

[15] The Dodd-Frank Act required the Office of the Comptroller of the Currency; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; National Credit Union Administration; Bureau of Consumer Financial Protection; and Federal Housing Finance Agency to establish, by rule, minimum requirements to be imposed by a participating State appraiser certifying and licensing agency on AMCs doing business in the State. (Title XI § 1124(a), 12 U.S.C. 3353(a).) Those rules were finalized and published on June 9, 2015, at 80 **Federal Register** 32658 with an effective date of August 10, 2015. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.)

[16] These Policy Statements, adopted [date to be inserted when final], supersede all previous Policy Statements adopted by the ASC.

[17] Title XI § 1118(a), 12 U.S.C. 3347.

[18] *See* Appendix B, *Glossary of Terms,* for the definition of ''State board.''

certified general classifications, if they consider such requirements necessary to carry out their responsibilities under Federal and/or State statutes and regulations, so long as the additional qualification requirements do not preclude compliance with AQB Criteria.

E. Non-Federally Recognized Credentials

States using non-federally recognized credentials or designations [19] must ensure that they are easily distinguished from the federally recognized credentials.

F. Appraisal Standards

Title XI and the Federal financial institutions regulatory agencies' regulations mandate that all appraisals performed in connection with federally related transactions be in written form, prepared in accordance with generally accepted appraisal standards as promulgated by the Appraisal Standards Board (ASB) in the Uniform Standards of Professional Appraisal Practice (USPAP), and be subject to appropriate review for compliance with USPAP.[20] States that have incorporated USPAP into State law should ensure that statutes or regulations are updated timely to adopt the current version of USPAP, or if State law allows, automatically incorporate the latest version of USPAP as it becomes effective. States should consider ASB Advisory Opinions, Frequently Asked Questions, and other written guidance issued by the ASB regarding interpretation and application of USPAP.

Any State or Federal agency may impose additional appraisal standards if they consider such standards necessary to carry out their responsibilities, so long as additional appraisal standards do not preclude compliance with USPAP or the Federal financial institutions regulatory agencies' appraisal regulations for work performed for federally related transactions.

The Federal financial institutions regulatory agencies' appraisal regulations define ''appraisal'' and identify which real estate-related financial transactions require the services of a State certified or licensed appraiser. These regulations define ''appraisal'' as a ''written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s) supported by the presentation and analysis of relevant market information.'' Per these regulations, an appraiser performing an appraisal review which includes the reviewer providing his or her own opinion of value constitutes an appraisal. Under these same regulations, an appraisal review that does not include the reviewer providing his or her own opinion of value does not constitute an appraisal. Therefore, under the Federal financial institutions regulatory agencies' regulations, only those transactions that involve appraisals for federally related transactions require the services of a State certified or licensed appraiser.

G. Exemptions

Title XI and the Federal financial institutions regulatory agencies' regulations specifically require the use of State certified or licensed appraisers in connection with the appraisal of certain real estate-related financial transactions.[21] A State may not exempt any individual or group of individuals from meeting the State's certification or licensing requirements if the individual or group member performs an appraisal when Federal statutes and regulations require the use of a certified or licensed appraiser. For example, an individual who has been exempted by the State from its appraiser certification or licensing requirements because he or she is an officer, director, employee or agent of a federally regulated financial institution would not be permitted to perform an appraisal in connection with a federally related transaction.

H. ASC Staff Attendance at State Board Meetings

The efficacy of the ASC's Compliance Review process rests on the ASC's ability to obtain reliable information about all areas of a State's Appraiser Program. ASC staff regularly attends open State board meetings as part of the on-site Compliance Review process. States are expected to make available for review by ASC staff minutes of closed meetings and executive sessions. States are encouraged to allow ASC staff to attend closed and executive sessions of State board meetings where such attendance would not violate State law or regulation or be inconsistent with other legal obligations of the State board. ASC staff is obligated to protect information obtained during the Compliance Review process concerning the privacy of individuals and any confidential matters.

I. Summary of Requirements

1. States must require that appraisals be performed in accordance with the latest version of USPAP.[22]

2. States must, at a minimum, adopt and/or implement all relevant AQB Criteria.[23]

3. States must have policies, practices and procedures consistent with Title XI.[24]

4. States must have funding and staffing sufficient to carry out their Title XI-related duties.[25]

5. States must use proper designations and permitted scope of practice for certified residential; certified general; licensed; and trainee classifications.[26]

6. State board members, and any persons in policy or decision-making positions, must perform their responsibilities consistent with Title XI.[27]

7. States' certification and licensing requirements must meet the minimum requirements set forth in Title XI.[28]

8. State requirements for trainee appraisers and supervisory appraisers must meet or exceed the AQB Criteria.

9. State agencies must be granted adequate authority by the State to maintain an effective regulatory Appraiser Program in compliance with Title XI.[29]

Policy Statement 2

Temporary Practice

A. Requirement for Temporary Practice

Title XI requires State agencies to recognize, on a temporary basis, the certification or license of an out-of-State appraiser entering the State for the purpose of completing an appraisal assignment [30] for a federally related transaction. States are not, however, required to grant temporary practice permits to trainee appraisers. The out-of-State appraiser must register with the State agency in the State of temporary practice (Host State). A State may determine the process necessary for

[19] *See* Appendix B, *Glossary of Terms,* for the definition of ''non-federally recognized credentials or designations.''

[20] *See* Appendix B, *Glossary of Terms* for the definition of ''Uniform Standards of Professional Appraisal Practice.''

[21] Title XI § 1112, 12 U.S.C. 3341; Title XI § 1113, 12 U.S.C. 3342; Title XI § 1114, 12 U.S.C. 3343.

[22] Title XI § 1101, 12 U.S.C. 3331; Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria.*

[23] Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345; Title XI § 1118(a), 12 U.S.C. 3347.

[24] Title XI § 1118(a), 12 U.S.C. 3347.

[25] *Id;* Title XI § 1118(b), 12 U.S.C. 3347.

[26] Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345; Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1113, 12 U.S.C. 3342; AQB *Real Property Appraiser Qualification Criteria.*

[27] Title XI § 1118(a), 12 U.S.C. 3347.

[28] Title XI §§ 1116(a), (c) and (e), 12 U.S.C. 3345.

[29] Title XI § 1118(b), 12 U.S.C. 3347.

[30] *See* Appendix B, *Glossary of Terms,* for the definition of ''assignment.''

''registration'' provided such process complies with Title XI and does not impose ''excessive fees or burdensome requirements,'' as determined by the ASC.[31] Thus, a credentialed appraiser [32] from State A has a statutory right to enter State B (the Host State) to perform an assignment concerning a federally related transaction, so long as the appraiser registers with the State agency in State B prior to performing the assignment. Though Title XI contemplates reasonably free movement of credentialed appraisers across State lines, an out-of-State appraiser must comply with the Host State's real estate appraisal statutes and regulations and is subject to the Host State's full regulatory jurisdiction. States should utilize the National Registry of Appraisers to verify credential status on applicants for temporary practice.

B. Excessive Fees or Burdensome Requirements

Title XI prohibits States from imposing excessive fees or burdensome requirements, as determined by the ASC, for temporary practice.[33] Adherence by State agencies to the following mandates and prohibitions will deter the imposition of excessive fees or burdensome requirements.

Host State agencies must:

a. Issue temporary practice permits on an assignment basis;

b. issue temporary practice permits within five business days of receipt of a completed application, or notify the applicant and document the file as to the circumstances justifying delay or other action;

c. issue temporary practice permits designating the permit's effective date;

d. take regulatory responsibility for a temporary practitioner's unethical, incompetent and/or fraudulent practices performed while in the State;

e. notify the appraiser's home State agency [34] in the case of disciplinary action concerning a temporary practitioner;

f. allow at least one temporary practice permit extension through a streamlined process;

g. track all temporary practice permits using a permit log which includes the name of the applicant, date application received, date completed application received, date of issuance, and date of expiration, if any (States are strongly encouraged to maintain this information in an electronic, sortable format); and

h. maintain documentation sufficient to demonstrate compliance with this Policy Statement.

Host State agencies may not:

a. Limit the valid time period of a temporary practice permit to less than 6 months (unless the applicant requests a specific end date and the applicant is allowed an extension if required to complete the assignment, the applicant's credential is no longer in active status during that period of time);

b. limit an appraiser to one temporary practice permit per calendar year; [35]

c. charge a temporary practice permit fee exceeding $250, including one extension fee;

d. impose State appraiser qualification requirements for education, experience and/or exam upon temporary practitioners;

e. require temporary practitioners to obtain a certification or license in the State of temporary practice;

f. require temporary practitioners to affiliate with an in-State licensed or certified appraiser;

g. refuse to register licensed or certified appraisers seeking temporary practice in a State that does not have a licensed or certified level credential; or

h. prohibit temporary practice.

Home State agencies may not:

a. Delay the issuance of a written ''letter of good standing'' or similar document for more than five business days after receipt of a request; or

b. fail to consider and, if appropriate, take disciplinary action when one of its certified or licensed appraisers is disciplined by another State.

C. Summary of Requirements

1. States must recognize, on a temporary basis, appraiser credentials issued by another State if the property to be appraised is part of a federally related transaction.[36]

2. State agencies must adhere to mandates and prohibitions as determined by the ASC that deter the imposition of excessive fees or burdensome requirements for temporary practice.[37]

Policy Statement 3

National Registry of Appraisers

A. Requirements for the National Registry of Appraisers

Title XI requires the ASC to maintain a National Registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions (Appraiser Registry).[38] Title XI further requires the States to transmit to the ASC: (1) A roster listing individuals who have received a State certification or license in accordance with Title XI; (2) reports on the issuance and renewal of licenses and certifications, sanctions, disciplinary actions, revocations and suspensions; and (3) the registry fee as set by the ASC [39] from individuals who have received certification or licensing. States must notify the ASC as soon as practicable if a credential holder listed on the Appraiser Registry does not qualify for the credential held.

Roster and registry fee requirements apply to all individuals who receive State certifications or licenses, originally or by reciprocity, whether or not the individuals are, in fact, performing or planning to perform appraisals in federally related transactions. If an appraiser is certified or licensed in more than one State, the appraiser is required to be on each State's roster of certified or licensed appraisers, and a registry fee is due from each State in which the appraiser is certified or licensed.

Only AQB-compliant certified and licensed appraisers in active status on the Appraiser Registry are eligible to perform appraisals in connection with federally related transactions. Only those appraisers whose registry fees have been transmitted to the ASC will be eligible to be on the Appraiser Registry for the period subsequent to payment of the fee.

Some States may give State certified or licensed appraisers an option to not pay the registry fee. If a State certified or licensed appraiser chooses not to pay the registry fee, then the Appraiser Program must ensure that any potential user of that appraiser's services is aware that the appraiser is not eligible to perform appraisals for federally related transactions. The Appraiser Program must place a conspicuous notice directly on the face of any evidence of the appraiser's authority to appraise

[31] Title XI § 1122(a)(2), 12 U.S.C. 3351.

[32] *See* Appendix B, *Glossary of Terms,* for the definition of ''credentialed appraisers.''

[33] Title XI § 1122(a)(2), 12 U.S.C. 3351.

[34] See Appendix B, Glossary of Terms, for the definition of ''home State agency.''

[35] State agencies may establish by statute or regulation a policy that places reasonable limits on the number of times an out-of-State certified or licensed appraiser may exercise his or her temporary practice rights in a given year. If such a policy is not established, a State agency may choose not to honor an out-of-State certified or licensed appraiser's temporary practice rights if it has made a determination that the appraiser is abusing his or her temporary practice rights and is regularly engaging in real estate appraisal services within the State.

[36] Title XI § 1122(a)(1), 12 U.S.C. 3351.

[37] Title XI § 1122(a)(2), 12 U.S.C. 3351.

[38] Title XI § 1103(a)(3), 12 U.S.C. 3332.

[39] Title XI § 1109, *Roster of State certified or licensed appraisers; authority to collect and transmit fees,* requires the ASC to consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. (Title XI § 1109(a), 12 U.S.C. 3338.)

stating, ''Not Eligible To Appraise Federally Related Transactions,'' and the appraiser must not be listed in active status on the Appraiser Registry.

The ASC extranet application allows States to update their appraiser credential information directly to the Appraiser Registry. Only Authorized Registry Officials are allowed to request access for their State personnel (see section C below). The ASC will issue a User Name and Password to the designated State personnel responsible for that State's Appraiser Registry entries. Designated State personnel are required to protect the right of access, and not share their User Name or Password with anyone. States must adopt and implement a written policy to protect the right of access, as well as the ASC issued User Name and Password. The ASC will provide detailed specifications regarding the data elements on the Appraiser Registry.

B. Registry Fee and Invoicing Policies

Each State must remit to the ASC the annual registry fee, as set by the ASC, for State certified or licensed appraisers within the State to be listed on the Appraiser Registry. Requests to prorate refunds or partial-year registrations will not be granted. If a State collects multiple-year fees for multiple-year certifications or licenses, the State may choose to remit to the ASC the total amount of the multiple-year registry fees or the equivalent annual fee amount. The ASC will, however, record appraisers on the Appraiser Registry only for the number of years for which the ASC has received payment. Nonpayment by a State of an appraiser's registry fee may result in the status of that appraiser being listed as ''inactive.'' States must reconcile and pay registry invoices in a timely manner (45 calendar days after the invoice date). When a State's failure to pay a past due invoice results in appraisers being listed as inactive, the ASC will not change those appraisers back to active status until payment is received from the State. An inactive status on the Appraiser Registry, for whatever the reason, renders an appraiser ineligible to perform appraisals in connection with federally related transactions.

C. Access to Appraiser Registry Data

The ASC Web site provides free access to the public portion of the Appraiser Registry at *www.asc.gov.* The public portion of the Appraiser Registry data may be downloaded using predefined queries or user-customized applications.

Access to the full database, which includes non-public data (*e.g.,* certain disciplinary action information), is restricted to authorized State and Federal regulatory agencies. States must designate a senior official, such as an executive director, to serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the designated Authorized Registry Official. States must ensure that the authorization information provided to the ASC is updated and accurate.

D. Information Sharing

Information sharing (routine exchange of certain information among lenders, governmental entities, State agencies and the ASC) is essential for carrying out the purposes of Title XI. Title XI requires the ASC, any other Federal agency or instrumentality, or any federally recognized entity to report any action of a State certified or licensed appraiser that is contrary to the purposes of Title XI to the appropriate State agency for disposition. The ASC believes that full implementation of this Title XI requirement is vital to the integrity of the system of State appraiser regulation. States are encouraged to develop and maintain procedures for sharing of information among themselves.

The Appraiser Registry's value and usefulness are largely dependent on the quality and frequency of State data submissions. Accurate and frequent data submissions from all States are necessary to maintain an up-to-date Appraiser Registry. States must submit appraiser data in a secure format to the ASC at least monthly. If there are no changes to the data, the State agency must notify the ASC of that fact in writing. States are encouraged to submit data as frequently as possible.

States must report all disciplinary action [40] taken against an appraiser to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law.[41] States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.[42]

For the most serious disciplinary actions (*i.e.,* voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder's ability to practice), the appraiser's status must be changed on the Appraiser Registry to ''inactive,'' thereby making the appraiser ineligible to perform appraisals for federally related transactions or other transactions requiring the use of State certified or licensed appraisers.[43]

Title XI also contemplates the reasonably free movement of certified and licensed appraisers across State lines. This freedom of movement assumes, however, that certified and licensed appraisers are, in all cases, held accountable and responsible for their actions while performing appraisal activities.

E. Summary of Requirements

1. States must reconcile and pay registry invoices in a timely manner (45 calendar days after the invoice date).[44]

2. States must report all disciplinary action taken against an appraiser to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law.[45]

3. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.[46]

4. For the most serious disciplinary actions (*i.e.,* voluntary surrenders, suspensions and revocations, or any action that interrupts a credential holder's ability to practice), the appraiser's status must be changed on the Appraiser Registry to ''inactive,'' thereby making the appraiser ineligible to perform appraisals for federally related transactions or other transactions requiring the use of State certified or licensed appraisers.[47]

5. States must designate a senior official, such as an executive director, who will serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the selected Authorized Registry Official, and any individual(s) authorized to act on their behalf.[48]

6. States must ensure that the authorization information provided to the ASC is updated and accurate.[49]

7. States must adopt and implement a written policy to protect the right of access to the Appraiser Registry, as well as the ASC issued User Name and Password.[50]

[40] *See* Appendix B, *Glossary of Terms,* for the definition of ''disciplinary action.''

[41] *Id.*

[42] Title XI § 1118(a), 12 U.S.C. 3347.

[43] *Id.*

[44] Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1109(a), 12 U.S.C. 3338.

[45] *Id.*

[46] Title XI § 1118(a), 12 U.S.C. 3347.

[47] *Id.*

[48] *Id.*

[49] *Id.*

[50] *Id.*

8. States must ensure the accuracy of all data submitted to the Appraiser Registry.[51]

9. States must submit appraiser data (other than discipline) to the ASC at least monthly. If a State's data does not change during the month, the State agency must notify the ASC of that fact in writing.[52]

10. If a State certified or licensed appraiser chooses not to pay the registry fee, the State must ensure that any potential user of that appraiser's services is aware that the appraiser's certificate or license is limited to performing appraisals only in connection with non-federally related transactions.[53]

Policy Statement 4

Application Process

AQB Criteria sets forth the minimum education, experience and examination requirements applicable to all States for credentialing of real property appraisers (certified, licensed, trainee and supervisory). In the application process, States must, at a minimum, employ a reliable means of validating both education and experience credit claimed by applicants for credentialing.[54] Effective January 1, 2017, AQB Criteria also requires States to assess whether an applicant for a real property appraiser credential possesses a background that would not call into question public trust. The basis for such assessment shall be a matter left to the individual States, and must, at a minimum, be documented to the file.

A. Processing of Applications

States must process applications in a consistent, equitable and well-documented manner. Applications for credentialing should be timely processed by State agencies (within 90 calendar days after receipt of a completed application). Any delay in the processing of applications must be sufficiently documented in the file to explain the delay. States must ensure appraiser credential applications submitted for processing do not contain invalid examinations as established by AQB Criteria.

States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance, upgrade and renewal of a credential so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations. Documentation must include:

1. Application receipt date;
2. Education;
3. Experience;
4. Examination;
5. Continuing education; and
6. Any administrative or disciplinary action taken in connection with the application process, including results of any continuing education audit.

B. Qualifying Education for Initial or Upgrade Applications

States must verify that:

(1) The applicant's claimed education courses are acceptable under AQB Criteria; and

(2) the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought.

States may not accept an affidavit for claimed qualifying education from applicants for any federally recognized credential.[55] States must maintain adequate documentation to support verification of education claimed by applicants.

C. Continuing Education for Reinstatement and Renewal Applications

1. Reinstatement Applications

States must verify that:

(1) The applicant's claimed continuing education courses are acceptable under AQB Criteria; and

(2) the applicant has successfully completed all continuing education consistent with AQB Criteria for reinstatement of the appraiser credential sought.

States may not accept an affidavit for continuing education claimed from applicants for reinstatement. Applicants for reinstatement must submit documentation to support claimed continuing education and States must maintain adequate documentation to support verification of claimed education.

2. Renewal Applications

States must ensure that continuing education courses for renewal of an appraiser credential are consistent with AQB Criteria and that continuing education hours required for renewal of an appraiser credential were completed consistent with AQB Criteria. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure that adheres to the following objectives and requirements:

a. Validation Objectives

The State's validation procedures must be structured to permit acceptable projections of the sample results to the entire population of subject appraisers. Therefore, the sample must include an adequate number of affidavits selected from each federally recognized credential level to have a reasonable chance of identifying appraisers who fail to comply with AQB Criteria, and the sample must include a statistically relevant representation of the appraiser population being sampled.

b. Minimum Standards

(1) Validation must include a prompt post-approval audit. Each audit of an affidavit for continuing education credit claimed must be completed within 60 business days from the date the credential is scheduled for renewal (based on the credential's expiration date). To ensure the audit is a statistically relevant representation, a sampling of credentials that were renewed after the scheduled expiration date and/or beyond the date the sample was selected, must also be audited to ensure that a credential holder may not avoid being selected for a continuing education audit by renewing early or late.

(2) States must audit the continuing education-related affidavit for each credentialed appraiser selected in the sampling procedure.

(3) States must determine that education courses claimed conform to AQB Criteria and that the appraiser successfully completed each course.

(4) When a State determines that an appraiser's continuing education does not meet AQB Criteria, and the appraiser has failed to complete any remedial action offered, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. The State must notify the ASC within five (5) business days after taking such action in order for the appraiser's record on the Appraiser Registry to be updated appropriately.

(5) If a State determines that a renewal applicant knowingly falsely attested to completing the continuing education

[51] *Id.*

[52] *Id.*

[53] *Id.*

[54] Includes applications for credentialing of trainee, licensed, certified residential or certified general classifications.

[55] If a State accepts education-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require documentation to support the appraiser's educational qualification for the certified classification, not just the incremental amount of education required to move from the non-certified to the certified classification. This requirement applies to all federally recognized credentials.

required by AQB Criteria, the State must take appropriate administrative and/or disciplinary action and report such action, if deemed to be discipline, to the ASC within five (5) business days.

(6) If more than ten percent of the audited appraisers fail to meet the AQB Criteria, the State must take remedial action [56] to address the apparent weakness of its affidavit process. The ASC will determine on a case-by-case basis whether remedial actions are effective and acceptable.

(7) In the case of a renewal being processed after the credential's expiration date, but within the State's allowed grace period for a late renewal, the State must establish a reliable process to audit affidavits for continuing education (*e.g.,* requiring documentation of all continuing education).

c. Documentation

States must maintain adequate documentation to support its affidavit renewal and audit procedures and actions.

d. List of Education Courses

To promote accountability, the ASC encourages States accepting affidavits for continuing education credit claimed for credential renewal to require that the appraiser provide a list of courses to support the affidavit.

D. Experience for Initial or Upgrade Applications

States must ensure that appraiser experience logs conform to AQB Criteria. States may not accept an affidavit for experience credit claimed by applicants for any federally recognized credential.[57]

1. Validation Required

States must implement a reliable validation procedure to verify that each applicant's experience meets AQB Criteria, including but not limited to, being USPAP compliant and containing the required number of hours and months.

2. Validation Procedures, Objectives and Requirements

a. Experience Hours Validation

States must determine the hours and time period claimed on the experience log are accurate. Appraiser Program staff or State board members must select the work product to validate the experience hours claimed; applicants may not have any role in this selection process.

b. USPAP Compliance

States must analyze a representative sample of the applicant's work product for compliance with USPAP. For appraisal experience to be acceptable under AQB Criteria, it must be USPAP compliant. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP. Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.

c. Determination of Experience Time Periods

Experience time periods must conform to requirements set forth in the AQB Criteria for the credential sought.

d. Supporting Documentation

States must maintain adequate documentation to support validation methods. The applicant's file, either electronic or paper, must include the information necessary to identify each appraisal assignment selected to validate the experience hours claimed and each appraisal assignment analyzed by the State for USPAP compliance, notes, letters and/or reports prepared by the official(s) evaluating the report for USPAP compliance, and any correspondence exchanged with the applicant regarding the appraisals submitted. This supporting documentation may be discarded upon the completion of the first ASC Compliance Review performed after the credential issuance or denial for that applicant.

E. Examination

States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized appraiser classifications requiring an examination.

F. Summary of Requirements

Processing of Applications

1. States must process applications in a consistent, equitable and well-documented manner.[58]

2. States must ensure appraiser credential applications submitted for processing do not contain invalid examinations as established by AQB Criteria.[59]

3. States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance, upgrade or renewal of a credential so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.[60]

Education

1. States must verify that the applicant's claimed education courses are acceptable under AQB Criteria, whether for initial credentialing, renewal, upgrade or reinstatement.[61]

2. States must verify that the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought, whether for initial credentialing, renewal, upgrade or reinstatement.[62]

3. States must maintain adequate documentation to support verification.[63]

4. States may not accept an affidavit for education claimed from applicants for any federally recognized credential.[64]

5. States may not accept an affidavit for continuing education claimed from applicants for reinstatement.[65]

6. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure.[66]

7. Audits of affidavits for continuing education credit claimed must be completed within sixty (60) business days from the date the credential is scheduled for renewal (based on the credential's expiration date).[67]

8. In the case of a renewal being processed after the credential's

[56] For example:

(1) A State may conduct an additional audit using a higher percentage of audited appraisers; or

(2) a State may publicly post action taken to sanction non-compliant appraisers to increase awareness in the appraiser community of the importance of compliance with continuing education requirements.

[57] *See* Policy Statement 1D and E for discussion of ''federally recognized credential'' and ''non-federally recognized credential.'' If prior to July 1, 2013, a State accepted experience-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require experience documentation to support the appraiser's qualification for the certified classification, not just the incremental amount of experience required to move from the non-certified to the certified classification. For example, if a State accepted an experience affidavit from an appraiser to support the appraiser's initial hours to qualify for the licensed classification, and subsequently that appraiser applies to upgrade to the certified residential classification, the State must require documentation to support the full experience hours required for the certified residential classification, not just the difference in hours between the two classifications.

[58] Title XI § 1118(a), 12 U.S.C. 3347.

[59] Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria.*

[60] Title XI § 1118(a), 12 U.S.C. 3347.

[61] *Id.*

[62] *Id.*

[63] Title XI § 1118(a), 12 U.S.C. 3347.

[64] *Id.*

[65] *Id.*

[66] Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria.*

[67] Title XI § 1118(a), 12 U.S.C. 3347.

expiration date, but within the State's allowed grace period for a late renewal, the State must establish a reliable process to audit affidavits for continuing education (*e.g.,* requiring documentation of all continuing education).[68]

9. States are required to take remedial action when it is determined that more than ten percent of audited appraiser's affidavits for continuing education credit claimed fail to meet the minimum AQB Criteria.[69]

10. States are required to take appropriate administrative and/or disciplinary action when it is determined that an applicant knowingly falsely attested to completing continuing education.[70]

11. When a State determines that an appraiser's continuing education does not meet AQB Criteria, and the appraiser has failed to complete any remedial action offered, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. The State must notify the ASC within five (5) business days after taking such action in order for the appraiser's record on the Appraiser Registry to be updated appropriately.[71]

Experience

1. States may not accept an affidavit for experience credit claimed from applicants for any federally recognized credential.[72]

2. States must ensure that appraiser experience logs conform to AQB Criteria.[73]

3. States must use a reliable means of validating appraiser experience claims on all initial or upgrade applications for appraiser credentialing.[74]

4. States must select the work product to validate the experience hours claimed on all initial or upgrade applications for appraiser credentialing.[75]

5. States must analyze a representative sample of the applicant's work product for compliance with USPAP on all initial or upgrade applications for appraiser credentialing.[76]

6. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP on all initial or upgrade applications for appraiser credentialing.[77]

7. Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.[78]

8. Experience time periods must conform to requirements set forth in the AQB Criteria for the credential sought.[79]

Examination

1. States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized credentials requiring an examination.[80]

Policy Statement 5

Reciprocity

A. Reciprocity Policy

Title XI contemplates the reasonably free movement of certified and licensed appraisers across State lines. The ASC monitors Appraiser Programs for compliance with the reciprocity provision of Title XI as amended by the Dodd-Frank Act.[81] Title XI requires that in order for a State's appraisers to be eligible to perform appraisals for federally related transactions, the State must have a policy in place for issuing reciprocal credentials IF:

a. The appraiser is coming from a State (Home State) that is ''in compliance'' with Title XI as determined by the ASC; AND

b. (i) the appraiser holds a valid credential from the Home State; AND

(ii) the credentialing requirements of the Home State[82] meet or exceed those of the reciprocal credentialing State (Reciprocal State).[83]

An appraiser relying on a credential from a State that does not have such a policy in place may not perform appraisals for federally related transactions. A State may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy. However, States cannot impose additional impediments to obtaining reciprocal credentials.

For purposes of implementing the reciprocity policy, States with an ASC Finding[84] of ''Poor'' do not satisfy the ''in compliance'' provision for reciprocity. Therefore, States are not required to recognize, for purposes of granting a reciprocal credential, the license or certification of an appraiser credentialed in a State with an ASC Finding of ''Poor.''

B. Application of Reciprocity Policy

The following examples illustrate application of reciprocity in a manner that complies with Title XI. The examples refer to the reciprocity policy requiring issuance of a reciprocal credential IF:

a. The appraiser is coming from a State that is ''in compliance''; AND

b. (i) the appraiser holds a valid credential from that State; AND

(ii) the credentialing requirements of that State (as they currently exist) meet or exceed those of the reciprocal credentialing State (as they currently exist).

Example 1. Additional Requirements Imposed on Applicants

State A requires that prior to issuing a reciprocal credential the applicant must certify that disciplinary proceedings are not pending against that applicant in any jurisdiction. Under b.(ii) above, if this requirement is not imposed on all of its own applicants for credentialing, STATE A cannot impose this requirement on applicants for reciprocal credentialing.

Example 2. Credentialing Requirements

An appraiser is seeking a reciprocal credential in STATE A. The appraiser holds a valid credential in STATE Z, even though it was issued in 2007. This satisfies b.(i) above. However, in order to satisfy b.(ii), STATE A would evaluate STATE Z's credentialing requirements as they currently exist to determine whether they meet or exceed STATE A's current requirements for credentialing.

Example 3. Multiple State Credentials

An appraiser credentialed in several States is seeking a reciprocal credential in State A. That appraiser's initial credentials were obtained through examination in the original credentialing State and through reciprocity in the additional States. State A requires the applicant to provide a ''letter of good standing'' from the State of original credentialing as a condition of granting a reciprocal credential. State A may not impose such a requirement since Title XI does not

[68] *Id.*

[69] *Id.*

[70] *Id.*

[71] *Id.*

[72] *Id.*

[73] Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria.*

[74] Title XI § 1118(a), 12 U.S.C. 3347.

[75] Title XI § 1118(a), 12 U.S.C. 3347.

[76] *Id.*

[77] *Id.*

[78] *Id.*

[79] Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria.*

[80] *Id.*

[81] Title XI § 1122(b), 12 U.S.C. 3351.

[82] As they exist at the time of application for reciprocal credential.

[83] *Id.*

[84] *See* Appendix A, *Compliance Review Process,* for an explanation of ASC Findings.

distinguish between credentials obtained by examination and credentials obtained by reciprocity for purposes of granting reciprocal credentials.

C. Appraiser Compliance Requirements

In order to maintain a credential granted by reciprocity, appraisers must comply with the credentialing State's policies, rules and statutes governing appraisers, including requirements for payment of certification and licensing fees, as well as continuing education.[85]

D. Well-Documented Application Files

States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

E. Summary of Requirements

1. States must have a reciprocity policy in place for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI in order for the State's appraisers to be eligible to perform appraisals for federally related transactions.[86]

2. States may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy; however, States may not impose additional impediments to issuance of reciprocal credentials.[87]

3. States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance of a credential by reciprocity so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.[88]

Policy Statement 6

Education

AQB Criteria sets forth minimum requirements for appraiser education courses. This Policy Statement addresses proper administration of education requirements for compliance with AQB Criteria. (For requirements concerning qualifying and continuing education in the application process, see Policy Statement 4, *Application Process.*)

A. Course Approval

States must ensure that approved appraiser education courses are consistent with AQB Criteria and maintain sufficient documentation to support that approved appraiser education courses conform to AQB Criteria.

States should ensure that course approval expiration dates assigned by the State coincide with the endorsement period assigned by the AQB's Course Approval Program or any other AQB-approved organization providing approval of course design and delivery. States may not continue to accept AQB approved courses after the AQB's expiration date unless the course content is reviewed and approved by the State.

States should ensure that educational providers are afforded equal treatment in all respects.[89]

States are encouraged to accept courses approved by the AQB's Course Approval Program.

B. Distance Education

States must ensure that distance education courses meet AQB Criteria and that the delivery mechanism for distance education courses offered by a non-academic provider, including secondary providers, has been approved by an AQB-approved organization providing approval of course design and delivery.

States may not continue to accept courses after the AQB-approved organization's approval of course design and delivery date has expired.

C. Summary of Requirements

1. States must ensure that appraiser education courses are consistent with AQB Criteria.[90]

2. States must maintain sufficient documentation to support that approved appraiser courses conform to AQB Criteria.[91]

3. States must ensure the delivery mechanism for distance education courses offered by a non-academic provider, including secondary providers, has been approved by an AQB-approved organization providing approval of course design and delivery.[92]

Policy Statement 7

State Agency Enforcement

A. State Agency Regulatory Program

Title XI requires the ASC to monitor the States for the purpose of determining whether the State processes complaints and completes investigations in a reasonable time period, appropriately disciplines sanctioned appraisers and maintains an effective regulatory program.[93]

B. Enforcement Process

States must ensure that the system for processing and investigating complaints [94] and sanctioning appraisers is administered in a timely, effective, consistent, equitable, and well-documented manner.

1. Timely Enforcement

States must process complaints of appraiser misconduct or wrongdoing in a timely manner to ensure effective supervision of appraisers, and when appropriate, that incompetent or unethical appraisers are not allowed to continue their appraisal practice. Absent special documented circumstances, final administrative decisions regarding complaints must occur within one year (12 months) of the complaint filing date. [95] Special documented circumstances are those extenuating circumstances (fully documented) beyond the control of the State agency that delays normal processing of a complaint such as: complaints involving a criminal investigation by a law enforcement agency when the investigative agency requests that the State refrain from proceeding; final disposition that has been appealed to a higher court; documented medical condition of the respondent; ancillary civil litigation; and complex cases that involve multiple individuals and reports. Such special documented circumstances also include those periods when State rules require referral of a complaint to another State entity for review and the State agency is precluded from further processing of the complaint until it is returned. In that circumstance, the State agency should document the required referral and the

[85] A State may offer to accept continuing education (CE) for a renewal applicant who has satisfied CE requirements of a home State; however, a State may not impose this as a requirement for renewal, thereby imposing a requirement for the renewal applicant to retain a home State credential.

[86] Title XI § 1122(b), 12 U.S.C. 3351.

[87] *Id.*

[88] Title XI § 1118(a), 12 U.S.C. 3347.

[89] For example:

(1) Consent agreements requiring additional education should not specify a particular course provider when there are other providers on the State's approved course listing offering the same course; and

(2) courses from professional organizations should not be automatically approved and/or approved in a manner that is less burdensome than the State's normal approval process.

[90] Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria.*

[91] Title XI § 1118(a), 12 U.S.C. 3347.

[92] Title XI § 1118(a), 12 U.S.C. 3347; AQB *Real Property Appraiser Qualification Criteria.*

[93] Title XI § 1118(a), 12 U.S.C. 3347.

[94] *See* Appendix B, *Glossary of Terms,* for the definition of ''complaint.''

[95] The one-year period for resolution of complaints is not intended to have the impact of a statute of limitation or statute of repose.

time period during which the complaint was not under its control or authority.

2. Effective Enforcement

Effective enforcement requires that States investigate allegations of appraiser misconduct or wrongdoing, and if allegations are proven, take appropriate disciplinary or remedial action. Dismissal of an alleged violation solely due to an ''absence of harm to the public'' is inconsistent with Title XI. Financial loss or the lack thereof is not an element in determining whether there is a violation. The extent of such loss, however, may be a factor in determining the appropriate level of discipline.

Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP and States must be able to document how such persons are so qualified.

States must analyze each complaint to determine whether additional violations, especially those relating to USPAP, should be added to the complaint.

Closure of a complaint based solely on a State's statute of limitations that results in dismissal of a complaint without the investigation of the merits of the complaint is inconsistent with the Title XI requirement that States assure effective supervision of the activities of credentialed appraisers.[96]

3. Consistent and Equitable Enforcement

Absent specific documented facts or considerations, substantially similar cases within a State should result in similar dispositions.

4. Well-Documented Enforcement

States must obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

a. Complaint Files

Complaint files must:

- Include documentation outlining the progress of the investigation;
- demonstrate that appraisal reports are analyzed and any USPAP violations are identified and considered, whether or not they were the subject of the complaint;
- include rationale for the final outcome of the case (*i.e.,* dismissal or imposition of discipline);
- include documentation explaining any delay in processing, investigation or adjudication;
- contain documentation that all ordered or agreed upon discipline, such as probation, fine, or completion of education is tracked and that completion of all terms is confirmed; and
- be organized in a manner that allows understanding of the steps taken throughout the complaint, investigation, and adjudicatory process.

b. Complaint Logs

States must track all complaints using a complaint log. The complaint log must record all complaints, regardless of their procedural status in the investigation and/or resolution process, including complaints pending before the State board, Office of the Attorney General, other law enforcement agencies, and/or offices of administrative hearings.

The complaint log must include the following information (States are strongly encouraged to maintain this information in an electronic, sortable format):

1. Case number
2. Name of respondent
3. Actual date the complaint was received by the State
4. Source of complaint (*e.g.,* consumer, lender, AMC, bank regulator, appraiser, hotline) or name of complainant
5. Current status of the complaint
6. Date the complaint was closed (*e.g.,* final disposition by the administrative hearing agency, Office of the Attorney General, State Appraiser Regulatory Agency or Court of Appeals)
7. Method of disposition (*e.g.,* dismissal, letter of warning, consent order, final order)
8. Terms of disposition (*e.g.,* probation, fine, education, mentorship)
9. In the case of open complaints, the most recent activity and date thereof (*e.g.* respondent's response to complaint received, contacted Attorney General for a status update, Board voted to offer a consent agreement)

C. Summary of Requirements

1. States must maintain relevant documentation to enable understanding of the facts and determinations in the matter and the reasons for those determinations.[97]

2. States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date, except for special documented circumstances.[98]

3. States must ensure that the system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner.[99]

4. States must track complaints of alleged appraiser misconduct or wrongdoing using a complaint log.[100]

5. States must appropriately document enforcement files and include rationale.[101]

6. States must regulate, supervise and discipline their credentialed appraisers.[102]

7. Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.[103]

Part B: AMC Program

Policy Statement 8

Statutes, Regulations, Policies and Procedures Governing State AMC Programs

A. Participating States and ASC Oversight

States are not required to establish an AMC registration and supervision program. For those States electing to participate in the registration and supervision of AMCs (participating States), ASC staff will informally monitor the State's progress to implement the requirements of Title XI and the AMC Rule.[104] Formal ASC oversight of State AMC Programs will begin at the next regularly scheduled Compliance Review of a State after the following occurs:

1. A State decides to be a participating State pursuant to the AMC Rule;

2. A State establishes an AMC program in accordance with the AMC Rule; and

3. A State begins reporting to the National Registry of AMCs (AMC Registry).

Formal ASC oversight will consist of evaluating AMC Programs in participating States during the Compliance Review process to determine compliance or lack thereof with Title XI, and to assess implementation of the minimum requirements for State registration and supervision of AMCs as established by

[96] Title XI § 1117, 12 U.S.C. 3346.

[97] Title XI § 1118(a), 12 U.S.C. 3347.

[98] *Id.*

[99] *Id.*

[100] *Id.*

[101] *Id.*

[102] *Id.*

[103] *Id.*

[104] Title XI § 1103(a)(1)(B), 12 U.S.C. 3332. AMC Rule means the interagency final rule on minimum requirements for State registration and supervision of AMCs (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.

the AMC Rule. Upon expiration of the statutory implementation period (see Policy Statement 11, *Statutory Implementation Period*), Compliance Reviews will include ASC oversight of AMC Programs for any participating State.

B. Relation to State Law

Participating States may establish requirements in addition to those in the AMC Rule.

Participating States may also have a more expansive definition of AMCs.[105] However, if a participating State has a more expansive definition of AMCs than in Title XI (thereby encompassing State regulation of AMCs that are not within the Title XI definition of AMC), the State must ensure such AMCs are identified as such in the State database, just as States currently do for non-federally recognized credentials or designations. Only those AMCs that meet the Federal definition of AMC will be eligible to be on the AMC Registry.

C. Funding and Staffing

The Dodd-Frank Act amended Title XI to require the ASC to determine whether participating States have sufficient funding and staffing to meet their Title XI requirements. Compliance with this provision requires that a State must provide its AMC Program with funding and staffing sufficient to carry out its Title XI-related duties. The ASC evaluates the sufficiency of funding and staffing as part of its review of all aspects of an AMC Program's effectiveness, including the adequacy of State boards, committees, or commissions responsible for carrying out Title XI-related duties.

D. Minimum Requirements for Registration and Supervision of AMCs as Established by the AMC Rule

1. AMC Registration and Supervision

If a State chooses to participate in the registration and supervision of AMCs in accordance with the AMC Rule, the State will be required to comply with the minimum requirements set forth in the AMC Rule. States should refer to the AMC Rule for compliance requirements[106] as this Policy Statement merely summarizes what the AMC Rule requires of participating States.

(a) The AMC Rule includes requirements for participating States to establish and maintain within the State appraiser certifying and licensing agency an AMC Program with the legal authority and mechanisms to:

(1) Review and approve or deny AMC initial registration applications and/or renewals for registration;

(2) Examine records of AMCs and require AMCs to submit information;

(3) Verify that appraisers on AMCs' panels hold valid State credentials;

(4) Conduct investigations of AMCs to assess potential violations of appraisal-related laws, regulations, or orders;

(5) Discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates appraisal-related laws, regulations, or orders; and

(6) Report an AMC's violation of appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations, to the ASC.

(b) The AMC Rule includes requirements for participating States to impose requirements on AMCs that are not Federally regulated AMCs[107] to:

(1) Register with and be subject to supervision by the State appraiser certifying and licensing agency;

(2) Engage only State-certified or State-licensed appraisers for federally related transactions in conformity with any federally related transaction regulations;

(3) Establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type;

(4) Direct the appraiser to perform the assignment in accordance with USPAP; and

(5) Establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a) through (i) of the Truth in Lending Act, 15 U.S.C. 1639e(a) through (i), and regulations thereunder.

2. Ownership Limitations for State-Registered AMCs

A. Appraiser Certification or Licensing of Owners

An AMC subject to State registration shall not be registered by a State or included on the AMC Registry if such AMC, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State for a substantive cause,[108] as determined by the State appraiser certifying and licensing agency. A State's process for review could, for example, be by questionnaire, or affidavit, or background screening, or otherwise. States must document to the file the State's method of review and the result.

B. Good Moral Character of Owners

An AMC shall not be registered by a State if any person that owns more than 10 percent of the AMC—

(1) Is determined by the State not to have good moral character; or

(2) Fails to submit to a background investigation carried out by the State.

A State's process for review could, for example, be by questionnaire, or affidavit, or background screening, or otherwise. The ASC would expect written documentation of the State's method of review and the result.

3. Requirements for Federally Regulated AMCs

Participating States are not required to identify Federally regulated AMCs[109] operating in their States, but rather the Federal financial institution regulatory agencies are responsible for requiring such AMCs to identify themselves to participating States and report required information.

A Federally regulated AMC shall not be included on the AMC Registry if such AMC, in whole or in part, directly or indirectly, is owned by any person who

[105] Title XI as amended by the Dodd-Frank Act defines ''appraisal management company'' to mean, in part, an external third party that oversees a network or panel of more than 15 appraisers (State certified or licensed) in a State, or 25 or more appraisers nationally (two or more States) within a given year. (12 U.S.C. 3350(11).) Title XI as amended by the Dodd-Frank Act also allows States to adopt requirements in addition to those in the AMC Rule. (12 U.S.C. 3353(b).) For example, States may decide to supervise entities that provide appraisal management services, but do not meet the size thresholds of the Title XI definition of AMC. If a State has a more expansive regulatory framework that covers entities that provide appraisal management services but do not meet the Title XI definition of AMC, the State should only submit information regarding AMCs meeting the Title XI definition to the AMC Registry.

[106] *See* footnote 107.

[107] ''Federally regulated AMCs,'' meaning AMCs that are subsidiaries owned and controlled by an insured depository institution or an insured credit union and regulated by a Federal financial institutions regulatory agency, are not required to register with the State (Title XI § 1124(c), 12 U.S.C. 3353(c)).

[108] An AMC subject to State registration is not barred from being registered by a State or included on the AMC Registry of AMCs if the license or certificate of the appraiser with an ownership interest was not revoked for a substantive cause and has been reinstated by the State or States in which the appraiser was licensed or certified. (12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.)

[109] *See* footnote 107.

has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State for a substantive cause, as determined by the ASC.

E. Summary of Requirements

1. Participating States must establish and maintain an AMC Program with the legal authority and mechanisms consistent with the AMC Rule.[110]

2. Participating States must impose requirements on AMCs consistent with the AMC Rule.[111]

3. Participating States must enforce and document ownership limitations for State-registered AMCs.[112]

4. Only those AMCs that meet the Federal definition of AMC will be eligible to be on the AMC Registry. Therefore, participating States that have a more expansive definition of AMCs than in the AMC Rule must ensure such non-Federally recognized AMCs are identified as such in the State database.[113]

5. States must have funding and staffing sufficient to carry out their Title XI-related duties.[114]

Policy Statement 9

National Registry of AMCs (AMC Registry)

A. Requirements for the AMC Registry

Title XI requires the ASC to maintain the AMC Registry of AMCs that are either registered with and subject to supervision of a participating State or are operating subsidiaries of a Federally regulated financial institution.[115] Title XI further requires the States to transmit to the ASC: (1) Reports on a timely basis of supervisory activities involving AMCs, including investigations resulting in disciplinary action being taken; and (2) the registry fee as set by the ASC[116] from AMCs that are either registered with a participating State or are Federally regulated AMCs.[117]

As with appraiser registry fees, Title XI, § 1109(a)(4)(b) requires the AMC registry fee to be collected by each participating State and transmitted to the ASC. Therefore, as with appraisers, an AMC will pay a registry fee in each participating State in which the AMC operates. As with appraisers, an AMC operating in multiple participating States will pay a registry fee in multiple States in order to be on the AMC Registry for each State.

States must notify the ASC as soon as practicable if an AMC listed on the AMC Registry is no longer registered with or operating in the State. The ASC extranet application allows States to update their AMC information directly to the AMC Registry.

B. Registry Fee and Invoicing Policies

Each State must remit to the ASC the annual registry fee, as set by the ASC, for AMCs to be listed on the AMC Registry. Requests to prorate refunds or partial-year registrations will not be granted. If a State collects multiple-year fees for multiple-years, the State may choose to remit to the ASC the total amount of the multiple-year registry fees or the equivalent annual fee amount. The ASC will, however, record AMCs on the AMC Registry only for the number of years for which the ASC has received payment. States must reconcile and pay registry invoices in a timely manner (45 calendar days after receipt of the invoice).

C. Reporting Requirements

State agencies must report all disciplinary action[118] taken against an AMC to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement. For the most serious disciplinary actions (*e.g.,* any action that interrupts an AMCs ability to provide appraisal management services), the AMCs status must be changed on the AMC Registry to ''inactive.'' A Federally regulated AMC operating in a State must report to the State the information required to be submitted by the State to the ASC, pursuant to the ASC's policies regarding the determination of the AMC Registry fee.

D. Access to AMC Registry Data

The ASC Web site provides free access to the public portion of the AMC Registry at *www.asc.gov.* The public portion of the AMC Registry data may be downloaded using predefined queries or user-customized applications.

Access to the full database, which includes non-public data (*e.g.,* certain disciplinary action information), is restricted to authorized State and Federal regulatory agencies. States must designate a senior official, such as an executive director, to serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the designated Authorized Registry Official. States must ensure that the authorization information provided to the ASC is updated and accurate. States must adopt and implement a written policy to protect the right of access, as well as the ASC issued User Name and Password.

E. Summary of Requirements

1. States must reconcile and pay registry invoices in a timely manner (45 calendar days after receipt of the invoice).[119]

2. State agencies must report all disciplinary action taken against an AMC to the ASC via the extranet application within 5 business days after the disciplinary action is final, as determined by State law.[120]

3. States not reporting via the extranet application must provide, in writing to the ASC, a description of the circumstances preventing compliance with this requirement.[121]

4. For the most serious disciplinary actions (*e.g.,* any action that interrupts an AMC's ability to provide appraisal management services), the AMC's status must be changed on the AMC Registry to ''inactive.'' [122]

5. States must notify the ASC as soon as practicable if an AMC listed on the AMC Registry is no longer registered with or operating in the State.

6. States must designate a senior official, such as an executive director, who will serve as the State's Authorized Registry Official, and provide to the ASC, in writing, information regarding the selected Authorized Registry Official, and any individual(s) authorized to act on their behalf.[123]

7. States must adopt and implement a written policy to protect the right of access to the AMC Registry, as well as the ASC issued User Name and Password.[124]

8. States must ensure the accuracy of all data submitted to the AMC Registry.[125]

[110] 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.

[111] *Id.*

[112] *Id.*

[113] Title XI § 1118(b), 12 U.S.C. 3347.

[114] *Id.*

[115] Title XI § 1103(a)(6), 12 U.S.C. 3332.

[116] Title XI § 1109(a)(4), 12 U.S.C. 3338.

[117] Title XI § 1109(a)(3) and (4), 12 U.S.C. 3338.

[118] *See* Appendix B, *Glossary of Terms,* for the definition of ''disciplinary action.''

[119] Title XI § 1118(a), 12 U.S.C. 3347; Title XI § 1109(a), 12 U.S.C. 3338.

[120] Title XI § 1118(a), 12 U.S.C. 3347.

[121] *Id.*

[122] *Id.*

[123] *Id.*

[124] *Id.*

[125] *Id.*

Policy Statement 10

State Agency Enforcement

A. State Agency Regulatory Program

Title XI requires the ASC to monitor the States for the purpose of determining whether the State processes complaints and completes investigations in a reasonable time period, appropriately disciplines sanctioned AMCs and maintains an effective regulatory program.[126]

B. Enforcement Process

States must ensure that the system for processing and investigating complaints [127] and sanctioning AMCs is administered in a timely, effective, consistent, equitable, and well-documented [128] manner.

1. Timely Enforcement

States must process complaints against AMCs in a timely manner to ensure effective supervision of AMCs. Absent special documented circumstances, final administrative decisions regarding complaints must occur within one year (12 months) of the complaint filing date. Special documented circumstances are those extenuating circumstances (fully documented) beyond the control of the State agency that delays normal processing of a complaint such as: Complaints involving a criminal investigation by a law enforcement agency when the investigative agency requests that the State refrain from proceeding; final disposition that has been appealed to a higher court; documented medical condition of the respondent; ancillary civil litigation; and complex fraud cases that involve multiple individuals and reports. Such special documented circumstances also include those periods when State rules require referral of a complaint to another State entity for review and the State agency is precluded from further processing of the complaint until it is returned. In that circumstance, the State agency should document the required referral and the time period during which the complaint was not under its control or authority.

2. Effective Enforcement

Effective enforcement requires that States investigate complaints, and if allegations are proven, take appropriate disciplinary or remedial action.

3. Consistent and Equitable Enforcement

Absent specific documented facts or considerations, substantially similar cases within a State should result in similar dispositions.

4. Well-Documented Enforcement

States must obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

a. Complaint Files

Complaint files must:

- Include documentation outlining the progress of the investigation;
- include rationale for the final outcome of the case (*i.e.,* dismissal or imposition of discipline);
- include documentation explaining any delay in processing, investigation or adjudication;
- contain documentation that all ordered or agreed upon discipline is tracked and that completion of all terms is confirmed; and
- be organized in a manner that allows understanding of the steps taken throughout the complaint, investigation, and adjudicatory process.

b. Complaint Logs

States must track all complaints using a complaint log. The complaint log must record all complaints, regardless of their procedural status in the investigation and/or resolution process, including complaints pending before the State board, Office of the Attorney General, other law enforcement agencies, and/or offices of administrative hearings. The complaint log must include the following information (States are strongly encouraged to maintain this information in an electronic, sortable format):

1. Case number
2. Name of respondent
3. Actual date the complaint was received by the State
4. Source of complaint (*e.g.,* consumer, lender, AMC, bank regulator, appraiser, hotline) or name of complainant
5. Current status of the complaint
6. Date the complaint was closed (*e.g.,* final disposition by the administrative hearing agency, Office of the Attorney General, State AMC Program or Court of Appeals)
7. Method of disposition (*e.g.,* dismissal, letter of warning, consent order, final order)
8. Terms of disposition (*e.g.,* probation, fine)
9. In the case of open complaints, the most recent activity and date thereof (*e.g.* respondent's response to complaint received, contacted Attorney General for a status update, Board voted to offer a consent agreement)

C. Summary of Requirements

1. States must maintain relevant documentation to enable understanding of the facts and determinations in the matter and the reasons for those determinations.[129]

2. States must resolve all complaints filed against appraisers within one year (12 months) of the complaint filing date, except for special documented circumstances.[130]

3. States must ensure that the system for processing and investigating complaints and sanctioning AMCs is administered in an effective, consistent, equitable, and well-documented manner.[131]

4. States must track complaints of alleged appraiser misconduct or wrongdoing using a complaint log.[132]

5. States must appropriately document enforcement files and include rationale.[133]

Policy Statement 11

Statutory Implementation Period

Title XI and the AMC Rule set forth the statutory implementation period.[134] The AMC Rule was effective on August 10, 2015. As of 36 months from that date (August 10, 2018), an AMC may not provide appraisal management services for a federally related transaction in a non-participating State unless the AMC is a Federally regulated AMC. Appraisal management services may still be provided for federally related transactions in non-participating States by individual appraisers, by AMCs that are below the minimum statutory panel size threshold, and as noted, by Federally regulated AMCs.

The ASC, with the approval of the Federal Financial Institutions Examination Council (FFIEC), may extend this statutory implementation period for an additional 12 months if the ASC makes a finding that a State has made substantial progress toward implementing a registration and supervision program for AMCs that meets the standards of Title XI.[135]

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[126] Title XI § 1118(a), 12 U.S.C. 3347.

[127] *See* Appendix B, *Glossary of Terms,* for the definition of ''complaint.''

[128] *See* Appendix B, *Glossary of Terms,* for the definition of ''well-documented.''

[129] Title XI § 1118(a), 12 U.S.C. 3347.

[130] *Id.*

[131] *Id.*

[132] *Id.*

[133] *Id.*

[134] Title XI § 1124(f)(1), 12 U.S.C. 3353 and 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26.

[135] Title XI § 1124(f)(2), 12 U.S.C. 3353.

Part C: Interim Sanctions

Policy Statement 12

Interim Sanctions

A. Authority

Title XI grants the ASC authority to impose sanctions on a State that fails to have an effective Appraiser or AMC Program.[136] The ASC may remove a State credentialed appraiser or a registered AMC from the Appraiser or AMC Registry on an interim basis, not to exceed 90 days, pending State agency action on licensing, certification, registration and disciplinary proceedings as an alternative to or in advance of a non-recognition proceeding.[137] In determining whether an Appraiser or AMC Program is effective, the ASC shall conduct an analysis as required by Title XI. An ASC Finding of Poor on the Compliance Review Report [138] issued to a State at the conclusion of an ASC Compliance Review may trigger an analysis by the ASC for potential interim sanction(s). The following provisions apply to the exercise by the ASC of its authority to impose interim sanction(s) on State agencies.

B. Opportunity To Be Heard or Correct Conditions

The ASC shall provide the State agency with:

1. Written notice of intention to impose an interim sanction; and

2. opportunity to respond or to correct the conditions causing such notice to the State.

Notice and opportunity to respond or correct the conditions shall be in accordance with section C, *Procedures.*

C. Procedures

This section prescribes the ASC's procedures which will be followed in arriving at a decision by the ASC to impose an interim sanction against a State agency.

1. Notice

The ASC shall provide a written Notice of intention to impose an interim sanction (Notice) to the State agency. The Notice shall contain the ASC's analysis as required by Title XI of the State's licensing and certification of appraisers, the registration of AMCs, the issuance of temporary licenses and certifications for appraisers, the receiving and tracking of submitted complaints against appraisers and AMCs, the investigation of complaints, and enforcement actions against appraisers and AMCs.[139] The ASC shall verify the State's date of receipt, and publish both the Notice and the State's date of receipt in the **Federal Register**.

2. State Agency Response

Within 15 days of receipt of the Notice, the State may submit a response to the ASC's Executive Director. Alternatively, a State may submit a Notice Not to Contest with the ASC's Executive Director. The filing of a Notice Not to Contest shall not constitute a waiver of the right to a judicial review of the ASC's decision, findings and conclusions. Failure to file a Response within 15 days shall constitute authorization for the ASC to find the facts to be as presented in the Notice and analysis. The ASC, for good cause shown, may permit the filing of a Response after the prescribed time.

3. Briefs, Memoranda and Statements

Within 45 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, the State agency may file with the ASC's Executive Director a written brief, memorandum or other statement providing factual data and policy and legal arguments regarding the matters set out in the Notice and analysis.

4. Oral Presentations to the ASC

Within 45 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, the State may file a request with the ASC's Executive Director to make oral presentation to the ASC. If the State has filed a request for oral presentation, the matter shall be heard within 45 days. An oral presentation shall be considered as an opportunity to offer, emphasize and clarify the facts, policies and laws concerning the proceeding, and is not a Meeting [140] of the ASC. On the appropriate date and time, the State agency will make the oral presentation before the ASC. Any ASC member may ask pertinent questions relating to the content of the oral presentation. Oral presentations will not be recorded or otherwise transcribed. Summary notes will be taken by ASC staff and made part of the record on which the ASC shall decide the matter.

5. Conduct of Interim Sanction Proceedings

(a) Written Submissions

All aspects of the proceeding shall be conducted by written submissions, with the exception of oral presentations allowed under subsection 4 above.

(b) Disqualification

An ASC member who deems himself or herself disqualified may at any time withdraw. Upon receipt of a timely and sufficient affidavit of personal bias or disqualification of such member, the ASC will rule on the matter as a part of the record.

(c) Authority of ASC Chairperson

The Chairperson of the ASC, in consultation with other members of the ASC whenever appropriate, shall have complete charge of the proceeding and shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings.

(d) Rules of Evidence

Except as is otherwise set forth in this section, relevant material and reliable evidence that is not unduly repetitive is admissible to the fullest extent authorized by the Administrative Procedure Act (5 U.S.C. 551–559) and other applicable law.

6. Decision of the ASC and Judicial Review

Within 90 days after the date of receipt by the State agency of the Notice as published in the **Federal Register**, or in the case of oral presentation having been granted, within 30 days after presentation, the ASC shall issue a final decision, findings and conclusions and shall publish the decision promptly in the **Federal Register**. The final decision shall be effective on issuance. The ASC's Executive Director shall ensure prompt circulation of the decision to the State agency. A final decision of the ASC is a prerequisite to seeking judicial review.

7. Computing Time

Time computation is based on business days. The date of the act, event or default from which the designated period of time begins to run is not included. The last day is included unless it is a Saturday, Sunday, or Federal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday or Federal holiday.

8. Documents and Exhibits

Unless otherwise provided by statute, all documents, papers and exhibits filed

[136] Title XI § 1118(a), 12 U.S.C. 3347.

[137] *Id.*

[138] *See Appendix A—Compliance Review Process.*

[139] Title XI § 1118(a), 12 U.S.C. 3347.

[140] The proceeding is more in the nature of a Briefing not subject to open meeting requirements. The presentation is an opportunity for the State to brief the ASC—to offer, emphasize and clarify the facts, policies and laws concerning the proceeding, and for the ASC members to ask questions. Additional consideration is given to the fact that this stage of the proceeding is pre-decisional.

in connection with any proceeding, other than those that may be withheld from disclosure under applicable law, shall be placed by the ASC's Executive Director in the proceeding's file and will be available for public inspection and copying.

9. Judicial Review

A decision of the ASC under this section shall be subject to judicial review. The form of proceeding for judicial review may include any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction in a court of competent jurisdiction.[141]

Appendices

Appendix A—Compliance Review Process

The ASC monitors State Appraiser and AMC Programs for compliance with Title XI. The monitoring of State Programs is largely accomplished through on-site visits known as a Compliance Review (Review). A Review is conducted over a two- to four-day period, and is scheduled to coincide with a meeting of the Program's decision-making body whenever possible. ASC staff reviews the Appraiser Program and the seven compliance areas addressed in Policy Statements 1 through 7. ASC staff reviews a participating State's AMC Program and the four compliance areas addressed in Policy Statements 8 through 11. Sufficient documentation demonstrating compliance must be maintained by a State and made available for inspection during the Review. ASC staff reviews a sampling of documentation in each of the compliance areas. The sampling is intended to be representative of a State Program in its entirety.

Based on the Review, ASC staff provides the State with an ASC staff report for the Appraiser Program, and if applicable, an ASC staff report for the AMC Program, detailing preliminary findings. The State is given 60 days to respond to the ASC staff report(s). At the conclusion of the Review, a Compliance Review Report (Report) is issued to the State for the Appraiser Program, and if applicable, a Report is also issued for the AMC Program, with the ASC Finding on each Program's overall compliance, or lack thereof, with Title XI. Deficiencies resulting in non-compliance in any of the compliance areas are cited in the Report. ''Areas of Concern'' which potentially expose a Program to compliance issues in the future are also addressed in the Report. The ASC's final disposition is based upon the ASC staff report, the State's response and staff's recommendation.

The following chart provides an explanation of the ASC Findings and rating criteria for each ASC Finding category. The ASC Finding places particular emphasis on whether the State is maintaining an effective regulatory Program in compliance with Title XI.

ASC finding	Rating criteria	Review Cycle (program history or nature of deficiency may warrant a more accelerated Review Cycle)
Excellent	• State meets all Title XI mandates and complies with requirements of ASC Policy Statements. • State maintains a strong regulatory Program. • Very low risk of Program failure.	2-year.
Good	• State meets the majority of Title XI mandates and complies with the majority of ASC Policy Statement requirements. • Deficiencies are minor in nature. • State is adequately addressing deficiencies identified and correcting them in the normal course of business. • State maintains an effective regulatory Program. • Low risk of Program failure.	2-year.
Needs Improvement	• State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements. • Deficiencies are material but manageable and if not corrected in a timely manner pose a potential risk to the Program. • State may have a history of repeated deficiencies but is showing progress toward correcting deficiencies. • State regulatory Program needs improvement. • Moderate risk of Program failure.	2-year with additional monitoring.
Not Satisfactory	• State does not meet all Title XI mandates and does not comply with all requirements of ASC Policy Statements. • Deficiencies present a significant risk and if not corrected in a timely manner pose a well-defined risk to the Program. • State may have a history of repeated deficiencies and requires more supervision to ensure corrective actions are progressing. • State regulatory Program has substantial deficiencies. • Substantial risk of Program failure.	1-year.
Poor[142]	• State does not meet Title XI mandates and does not comply with requirements of ASC Policy Statements. • Deficiencies are significant and severe, require immediate attention and if not corrected represent critical flaws in the Program. • State may have a history of repeated deficiencies and may show a lack of willingness or ability to correct deficiencies. • High risk of Program failure.	Continuous monitoring.

The ASC has two primary Review Cycles: Two-year and one-year. Most States are scheduled on a two-year Review Cycle. States may be moved to a one-year Review Cycle if the ASC determines more frequent on-site Reviews are needed to ensure that the State

[141] 5 U.S.C. 703—*Form and venue of proceeding.*

[142] An ASC Finding of ''Poor'' may result in significant consequences to the State. *See* Policy Statement 5, *Reciprocity; see also* Policy Statement 12, *Interim Sanctions.*

maintains an effective Program. Generally, States are placed on a one-year Review Cycle because of non-compliance issues or serious areas of concerns that warrant more frequent on-site visits. Both two-year and one-year Review Cycles include a review of all aspects of the State's Program.

The ASC may conduct Follow-up Reviews and additional monitoring. A Follow-up Review focuses only on specific areas identified during the previous on-site Review. Follow-up Reviews usually occur within 6–12 months of the previous Review. In addition, as a risk management tool, ASC staff identifies State Programs that may have a significant impact on the nation's appraiser regulatory system in the event of Title XI compliance issues. For States that represent a significant percentage of the credentials on the Appraiser Registry, ASC staff performs annual on-site Priority Contact visits. The primary purpose of the Priority Contact visit is to review topical issues, evaluate regulatory compliance issues, and maintain a close working relationship with the State. This is not a complete Review of the Program. The ASC will also schedule a Priority Contact visit for a State when a specific concern is identified that requires special attention. Additional monitoring may be required where a deficiency is identified and reports on required or agreed upon corrective actions are required monthly or quarterly. Additional monitoring may include on-site monitoring as well as off-site monitoring.

Appendix B—Glossary of Terms

Appraisal management company (AMC): Refers to, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year—

(A) To recruit, select, and retain appraisers;

(B) to contract with licensed and certified appraisers to perform appraisal assignments;

(C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

(D) to review and verify the work of appraisers.

AQB Criteria: Refers to the *Real Property Appraiser Qualification Criteria* as established by the Appraiser Qualifications Board of the Appraisal Foundation setting forth minimum education, experience and examination requirements for the licensure and certification of real property appraisers, and minimum requirements for ''Trainee'' and ''Supervisory'' appraisers.

Assignment: As referenced herein, for purposes of temporary practice, ''assignment'' means one or more real estate appraisals and written appraisal report(s) covered by a single contractual agreement.

Complaint: As referenced herein, any document filed with, received by, or serving as the basis for possible inquiry by the State agency regarding alleged violation of Title XI, Federal or State law or regulation, or USPAP by a credentialed appraiser or appraiser applicant, for allegations of unlicensed appraisal activity, or complaints involving AMCs. A complaint may be in the form of a referral, letter of inquiry, or other document alleging misconduct or wrongdoing.

Credentialed appraisers: Refers to State licensed, certified residential or certified general appraiser classifications.

Disciplinary action: As referenced herein, corrective or punitive action taken by or on behalf of a State agency which may be formal or informal, or may be consensual or involuntary, resulting in any of the following:

a. Revocation of credential or registration
b. suspension of credential or registration
c. written consent agreements, orders or reprimands
d. probation or any other restriction on the use of a credential
e. fine
f. voluntary surrender[143]
g. other acts as defined by State statute or regulation as disciplinary

With the exception of voluntary surrender, suspension or revocation, such action may be exempt from reporting to the National Registry if defined by State statute, regulation or written policy as ''non-disciplinary.''

Federally related transaction: Refers to any real estate related financial transaction which:

(a) A federal financial institutions regulatory agency engages in, contracts for, or regulates; and

(b) requires the services of an appraiser. (See Title XI § 1121(4), 12 U.S.C. 3350.)

Federal financial institutions regulatory agencies: Refers to the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration. (*See* Title XI § 1121(6), 12 U.S.C. 3350.)

Home State agency: As referenced herein, State agency or agencies that grant an appraiser a licensed or certified credential. Residency in the home State is not required. Appraisers may have more than one home State agency.

Non-federally recognized credentials or designations: Refers to any State appraiser credential or designation other than trainee, State licensed, certified residential or certified general classifications as defined in Policy Statement 1, and which is not recognized by Title XI.

Real estate related financial transaction: Any transaction involving:

(a) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(b) the refinancing of real property or interests in real property; and

(c) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities. (*See* Title XI § 1121(5), 12 U.S.C. 3350.)

State: Any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands. (American Samoa does not have a Program.)

State board: As referenced herein, ''State board'' means a group of individuals (usually appraisers, AMC representatives, bankers, consumers, and/or real estate professionals) appointed by the Governor or a similarly positioned State official to assist or oversee State Programs. A State agency may be headed by a board, commission or an individual.

Uniform Standards of Professional Appraisal Practice (USPAP): Refers to appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation establishing minimum requirements for development and reporting of appraisals, including real property appraisal. Title XI requires appraisals prepared by State certified and licensed appraisers to be performed in conformance with USPAP.

Well-documented: Means that States obtain and maintain sufficient relevant documentation pertaining to a matter so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

* * * * *

By the Appraisal Subcommittee.

Dated: September 13, 2017.

Arthur Lindo,

Chairman.

[FR Doc. 2017–19998 Filed 9–19–17; 8:45 am]

BILLING CODE 6700–01–P

[143] A voluntary surrender that is not deemed disciplinary by State law or regulation, or is not related to any disciplinary process need not be reported as discipline provided the individual's Appraiser Registry record is updated to show the credential is inactive.

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012487–001.

Title: Eastern Car Liner Ltd/Austral Asia Line Pte. Ltd Space Charter Agreement.

Parties: Eastern Car Liner, Ltd. and Austral Asia Line Pte Ltd.

Filing Party: Paul Coleman; Hoppel, Mayer & Coleman; 1050 Connnecticut Avenue NW., 5th Floor, Washington, DC 20036.

Synopsis: The amendment clarifies the geographic scope of the Agreement.

By Order of the Federal Maritime Commission.

Dated: September 15, 2017.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–20040 Filed 9–19–17; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–17AYG; Docket No. CDC–2017–0071]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on a proposed information collection project titled ''Effective Communication in Public Health Emergencies—Developing Community-Centered Tools for People with Special Health Care Needs.''

DATES: Written comments must be received on or before November 20, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0071 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

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 of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Effective Communication in Public Health Emergencies—Developing Community-Centered Tools for People with Special Health Care Needs—New—Office of Public Health Preparedness and Response (OPHPR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Individuals with access and mobility challenges, chronic illness, intellectual and developmental disabilities, and other communication difficulties require targeted messages before, during, and after disasters to ensure that they fully appreciate the risks to their health and safety and can take measures to avoid harm. Significant research has highlighted the unique information needs for at-risk populations in general, as well as more specific populations such as minority communities, limited-English proficiency communities, and persons with physical or communication disabilities. However, there has been minimal translation of this research into practical tools for sharing information, nor has the research been extended to the families of children and youth with special heath care needs.

Research has also shown that families and individuals are more likely to prepare for emergencies or follow health-related emergency directives when the information comes from a health care professional, particularly someone engaged in their care. There is very little information about the capacity of these trusted sources to reach at-risk individuals during disasters, or their coordination with government risk communication efforts.

Finally, although social media is used by at-risk populations on a daily basis, relatively little is known about how these populations use social media during disasters, as the majority of the studies analyzing channels used by at-risk populations were completed before the widespread use of social media in disasters.

This study will utilize a multi-tiered, mixed methods approach to data collection to study the communication needs of two target populations during disasters: Families with children and youth with special health care needs (CYSHCN); and individuals with Autism Spectrum Disorders, as well as families with children who have Autism Spectrum Disorders (ASD). Data collection will consist of surveys, as

well as focus groups and interviews. For each population, we will collect data from (1) families (*i.e.,* parents/caregivers of children and adolescents, as well as adolescents themselves) with special health care needs and ASD; and (2) the medical, social service and other providers who serve them. In addition, we will collect data from emergency-response agency representatives and experts in health information and communications technology to ask cross-cutting questions regarding the use of technology to communicate during disasters, and the perspectives and needs of individuals and agencies charged with leading disaster response efforts.

The data resulting from this study will be used to develop specific tools, protocols, and message templates that can be used for communicating during emergencies and disasters with families with CYSHCN and ASD.

CDC plans to begin the information collection one month after OMB approval and continue for twenty two months. Information in identifiable form will not be linked to interview responses. No CDC staff will participate in the collection of data or otherwise have contact with the participants. Drexel will store all the data, and CDC will only receive coded and aggregated data so it will not be possible to link responses with individual subjects. Data will be treated in a secure manner and will not be disclosed, unless otherwise compelled by law.

The total estimated annualized time burden to respondents is 419 hours.

This information collection request is a new request and approval is requested for 24 months.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Families/Caregivers (CYSHCN)	CYSHCN Family/Caregiver Survey	150	1	15/60	38
Families/Caregivers (ASD)	ASD Family/Caregiver Survey	200	1	15/60	50
Providers (CYSHCN)	CYSHCN Provider Survey	250	1	15/60	63
Providers (ASD)	ASD Provider Survey	150	1	15/60	38
Families/Caregivers (CYSHCN)	CYSHCN Family/Caregiver Interviews	50	1	1	50
Families/Caregivers (ASD)	ASD Family/Caregiver Interviews	30	1	1	30
Families/Caregivers (CYSHCN and ASD)	CYSHCN & ASD Family/Caregiver Evaluation Focus Group.	30	1	1.5	45
Providers (CYSHCN)	CYSHCN Provider Focus Group	20	1	1.5	30
Providers (ASD)	ASD Provider Focus Group	10	1	1.5	15
Emergency Response Organizations	Emergency Response Focus Group	10	1	1.5	15
Health IT Professionals	Health IT Focus Group	10	1	1.5	15
Providers	Provider Evaluation Focus Group	20	1	1.5	30
Total					419

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–19959 Filed 9–19–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–0666]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on May 30, 2017 to obtain comments from the public and affected agencies. CDC received one comment related to the first notice. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Healthcare Safety Network (NHSN) (OMB No. 0920–0666), exp. 11/30/2019—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Healthcare Safety Network (NHSN) is a system designed to accumulate, exchange, and integrate relevant information and resources among private and public stakeholders to support local and national efforts to protect patients and promote healthcare safety. Specifically, CDC uses the data to

determine the magnitude of various healthcare-associated adverse events and trends in the rates of these events among patients and healthcare workers with similar risks. CDC will use the data to detect changes in the epidemiology of adverse events resulting from new and current medical therapies and changing risks.

The NHSN currently consists of five components: Patient Safety, Healthcare Personnel Safety, Biovigilance, Long-Term Care Facility (LTCF), and Dialysis. CDC will release the NHSN ''Outpatient Procedure Component'' in 2018. CDC's request for additional user feedback and support from outside partners delayed development of this component.

After receiving user feedback and internal review feedback, CDC made changes to six facility surveys. For the annual facility surveys, CDC amended, removed, or added questions and response options to fit the survey's evolving uses. In addition, CDC and its partners use the surveys to help intelligently interpret the other data elements reported into NHSN. Currently, the surveys are used to appropriately risk adjust the numerator and denominator data entered into NHSN while also guiding decisions on future division priorities for prevention.

Further, two new forms were added to expand NHSN surveillance to enhance data collection by Ambulatory Surgical Centers to identify areas where prevention of SSIs may be improved. CDC modified an additional 14 forms within the Hemovigilance module to streamline data collection/entry for adverse reaction events.

Overall, CDC has made minor revisions to a total of 44 forms within the package to clarify and/or update surveillance definitions, increase or decrease the number of reporting facilities, and adding 2 new forms. The previously approved NHSN information collection package included 70 individual collection forms; the current revision request includes 72 forms. The reporting burden will increase by 811,985 hours, for a total of 5,922,953 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (hours)
Registered Nurse (Infection Preventionist).	57.100 NHSN Registration Form	2,000	1	5/60
Registered Nurse (Infection Preventionist).	57.101 Facility Contact Information	2,000	1	10/60
Registered Nurse (Infection Preventionist).	57.103 Patient Safety Component—Annual Hospital Survey	5,000	1	55/60
Registered Nurse (Infection Preventionist).	57.105 Group Contact Information	1,000	1	5/60
Registered Nurse (Infection Preventionist).	57.106 Patient Safety Monthly Reporting Plan	6,000	12	15/60
Registered Nurse (Infection Preventionist).	57.108 Primary Bloodstream Infection (BSI)	6,000	44	30/60
Registered Nurse (Infection Preventionist).	57.111 Pneumonia (PNEU)	6,000	72	30/60
Registered Nurse (Infection Preventionist).	57.112 Ventilator-Associated Event	6,000	144	25/60
Registered Nurse (Infection Preventionist).	57.113 Pediatric Ventilator-Associated Event (PedVAE)	2,000	120	25/60
Registered Nurse (Infection Preventionist).	57.114 Urinary Tract Infection (UTI)	6,000	40	20/60
Registered Nurse (Infection Preventionist).	57.115 Custom Event	2,000	91	35/60
Staff RN	57.116 Denominators for Neonatal Intensive Care Unit (NICU).	6,000	12	4
Staff RN	57.117 Denominators for Specialty Care Area (SCA)/Oncology (ONC).	6,000	9	5
Staff RN	57.118 Denominators for Intensive Care Unit (ICU)/Other locations (not NICU or SCA).	6,000	60	5
Registered Nurse (Infection Preventionist).	57.120 Surgical Site Infection (SSI)	6,000	36	35/60
Staff RN	57.121 Denominator for Procedure	6,000	540	10/60
Laboratory Technician	57.123 Antimicrobial Use and Resistance (AUR)—Microbiology Data Electronic Upload Specification Tables.	6,000	12	5/60
Pharmacist	57.124 Antimicrobial Use and Resistance (AUR)—Pharmacy Data Electronic Upload Specification Tables.	6,000	12	5/60
Registered Nurse (Infection Preventionist).	57.125 Central Line Insertion Practices Adherence Monitoring.	100	100	25/60
Registered Nurse (Infection Preventionist).	57.126 MDRO or CDI Infection Form	6,000	72	30/60
Registered Nurse (Infection Preventionist).	57.127 MDRO and CDI Prevention Process and Outcome Measures Monthly Monitoring.	6,000	24	15/60
Registered Nurse (Infection Preventionist).	57.128 Laboratory-identified MDRO or CDI Event	6,000	240	20/60
Registered Nurse (Infection Preventionist).	57.129 Adult Sepsis	50	250	25/60
Registered Nurse (Infection Preventionist).	57.137 Long-Term Care Facility Component—Annual Facility Survey.	2,600	1	2

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (hours)
Registered Nurse (Infection Preventionist).	57.138 Laboratory-identified MDRO or CDI Event for LTCF	2,600	12	15/60
Registered Nurse (Infection Preventionist).	57.139 MDRO and CDI Prevention Process Measures Monthly Monitoring for LTCF.	2,600	12	10/60
Registered Nurse (Infection Preventionist).	57.140 Urinary Tract Infection (UTI) for LTCF	2,600	14	30/60
Registered Nurse (Infection Preventionist).	57.141 Monthly Reporting Plan for LTCF	2,600	12	5/60
Registered Nurse (Infection Preventionist).	57.142 Denominators for LTCF Locations	2,600	12	4
Registered Nurse (Infection Preventionist).	57.143 Prevention Process Measures Monthly Monitoring for LTCF.	2,600	12	5/60
Registered Nurse (Infection Preventionist).	57.150 LTAC Annual Survey	400	1	55/60
Registered Nurse (Infection Preventionist).	57.151 Rehab Annual Survey	1,000	1	55/60
Occupational Health RN/ Specialist.	57.200 Healthcare Personnel Safety Component Annual Facility Survey.	50	1	8
Occupational Health RN/ Specialist.	57.203 Healthcare Personnel Safety Monthly Reporting Plan	17,000	1	5/60
Occupational Health RN/ Specialist.	57.204 Healthcare Worker Demographic Data	50	200	20/60
Occupational Health RN/ Specialist.	57.205 Exposure to Blood/Body Fluids	50	50	1
Occupational Health RN/ Specialist.	57.206 Healthcare Worker Prophylaxis/Treatment	50	30	15/60
Laboratory Technician	57.207 Follow-Up Laboratory Testing	50	50	15/60
Occupational Health RN/ Specialist.	57.210 Healthcare Worker Prophylaxis/Treatment-Influenza	50	50	10/60
Medical/Clinical Laboratory Technologist.	57.300 Hemovigilance Module Annual Survey	500	1	2
Medical/Clinical Laboratory Technologist.	57.301 Hemovigilance Module Monthly Reporting Plan	500	12	1/60
Medical/Clinical Laboratory Technologist.	57.303 Hemovigilance Module Monthly Reporting Denominators.	500	12	1.17
Medical/Clinical Laboratory Technologist.	57.305 Hemovigilance Incident	500	10	10/60
Medical/Clinical Laboratory Technologist.	57.306 Hemovigilance Module Annual Survey—Non-acute care facility.	200	1	35/60
Medical/Clinical Laboratory Technologist.	57.307 Hemovigilance Adverse Reaction—Acute Hemolytic Transfusion Reaction.	500	4	20/60
Medical/Clinical Laboratory Technologist.	57.308 Hemovigilance Adverse Reaction—Allergic Transfusion Reaction.	500	4	20/60
Medical/Clinical Laboratory Technologist.	57.309 Hemovigilance Adverse Reaction—Delayed Hemolytic Transfusion Reaction.	500	1	20/60
Medical/Clinical Laboratory Technologist.	57.310 Hemovigilance Adverse Reaction—Delayed Serologic Transfusion Reaction.	500	2	20/60
Medical/Clinical Laboratory Technologist.	57.311 Hemovigilance Adverse Reaction—Febrile Non-hemolytic Transfusion Reaction.	500	4	20/60
Medical/Clinical Laboratory Technologist.	57.312 Hemovigilance Adverse Reaction—Hypotensive Transfusion Reaction.	500	1	20/60
Medical/Clinical Laboratory Technologist.	57.313 Hemovigilance Adverse Reaction—Infection	500	1	20/60
Medical/Clinical Laboratory Technologist.	57.314 Hemovigilance Adverse Reaction—Post Transfusion Purpura.	500	1	20/60
Medical/Clinical Laboratory Technologist.	57.315 Hemovigilance Adverse Reaction—Transfusion Associated Dyspnea.	500	1	20/60
Medical/Clinical Laboratory Technologist.	57.316 Hemovigilance Adverse Reaction—Transfusion Associated Graft vs. Host Disease.	500	1	20/60
Medical/Clinical Laboratory Technologist.	57.317 Hemovigilance Adverse Reaction—Transfusion Related Acute Lung Injury.	500	1	20/60
Medical/Clinical Laboratory Technologist.	57.318 Hemovigilance Adverse Reaction—Transfusion Associated Circulatory Overload.	500	2	20/60
Medical/Clinical Laboratory Technologist.	57.319 Hemovigilance Adverse Reaction—Unknown Transfusion Reaction.	500	1	20/60
Medical/Clinical Laboratory Technologist.	57.320 Hemovigilance Adverse Reaction—Other Transfusion Reaction.	500	1	20/60
Medical/Clinical Laboratory Technologist.	57.400 Patient Safety Component—Annual Facility Survey	5,000	1	5/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (hours)
Staff RN	57.401 Outpatient Procedure Component—Monthly Reporting Plan.	5,000	12	15/60
Staff RN	57.402 Outpatient Procedure Component—Same Day Outcome Measures & Prophylactic Intravenous (IV) Antibiotic Timing Event.	5,000	25	40/60
Staff RN	57.403 Outpatient Procedure Component—Monthly Denominators for Same Day Outcome Measures & Prophylactic Intravenous (IV) Antibiotic Timing Event.	5,000	12	40/60
Staff RN	57.404 Outpatient Procedure Component—Annual Facility Survey.	5,000	540	10/60
Registered Nurse (Infection Preventionist).	57.405 Outpatient Procedure Component—Surgical Site (SSI) Event.	5,000	36	35/60
Staff RN	57.500 Outpatient Dialysis Center Practices Survey	7,000	1	2.0
Registered Nurse (Infection Preventionist).	57.501 Dialysis Monthly Reporting Plan	7,000	12	5/60
Staff RN	57.502 Dialysis Event	7,000	60	25/60
Staff RN	57.503 Denominator for Outpatient Dialysis	7,000	12	10/60
Staff RN	57.504 Prevention Process Measures Monthly Monitoring for Dialysis.	2,000	12	1.25
Staff RN	57.505 Dialysis Patient Influenza Vaccination	325	75	10/60
Staff RN	57.506 Dialysis Patient Influenza Vaccination Denominator	325	5	10/60
Staff RN	57.507 Home Dialysis Center Practices Survey	350	1	30/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–20009 Filed 9–19–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–0822; Docket No. CDC 2017–0067]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on The National Intimate Partner and Sexual Violence Survey (NISVS) to collect information about individual's experiences of sexual violence, stalking and intimate partner violence and information about the health consequences of these forms of violence. CDC produces national and state level prevalence estimates of these types of violence.

DATES: Written comments must be received on or before November 20, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0067 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal *Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

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 of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques

or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

The National Intimate Partner and Sexual Violence Survey (NISVS) (OMB Control Number 0920–0822, Expiration 07/30/2018)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Intimate Partner and Sexual Violence Surveillance System (NISVSS) data from 2010–2012 show that approximately 44.9 million women and 35.2 million men experienced contact sexual violence, physical violence and/or stalking by an intimate partner during their lifetime. The health care costs of IPV exceed $5.8 billion each year, nearly $3.9 billion of which is for direct medical and mental health care services. In order to address this important public health problem, CDC implemented, beginning in 2010, the National Intimate Partner and Sexual Violence Surveillance System that produces national and state level estimates of Intimate Partner Violence (IPV), Sexual Violence (SV) and stalking on an annual basis.

CDC seeks OMB approval for a three-year period. In this revision, CDC is requesting the continuation of data collection among non-institutionalized adult men and women aged 18 years or older in the United States assessing lifetime experiences of intimate partner violence (IPV), sexual violence (SV) and stalking with the version of the survey approved for the 2016–2017 data collection period, revised to remove questions for the Department of Defense (DoD) regarding the experiences of IPV, SV and stalking among active duty women and men in the military and wives of active duty men. These questions will not be a part of the next wave of data collection because this subsample data collection will be completed in 2017. The survey includes enhancements, already approved, that reduced instrument complexity in order to reduce respondent burden and make the data available to the public sooner in order to take action to prevent IPV, SV, and stalking. The periodicity of the administration of the NISVS instrument remains biennial. Biennial data collection was incorporated for previously approved data collections to increase the number of interviews.

To comply with OMB's terms of clearance for 2014 and 2016, CDC continues its collaboration with Bureau of Justice Statistics (BJS) in convening a work group to obtain expert feedback and input on how to enhance the NISVS survey. Workgroup participants will provide guidance on how to improve the system's survey design (*e.g.,* methods, sampling frame, recruitment, mode of administration, etc.) with the goals of increasing response rates, reducing non-response bias, and maximizing the opportunities across Federal surveys for covering populations of interest. Meetings with the work group, which included a representative from OMB, began in February of 2017 and are still on-going. Recommendations from the work group are in development and will be used to inform both the 2018–2019 efforts as well as the survey design and administration after 2019.

NISVS is a dual-frame (landline and cell phone) random digit dial (RDD) telephone survey. Data are be analyzed using appropriate statistical software to account for the complexity of the survey design to compute weighted counts, percentages, confidence intervals using both national and state level data. The average burden per screened respondent remains at 3 minutes, while the average burden per surveyed respondent is 25 minutes. The survey will be conducted among English or Spanish speaking male and female adults (18 years and older) living in the United States.

The estimated annual burden hours are 22,700 with a decreased of 4,316, from 27,106 hours previously approved. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Non-Participating Household (Screened).	NISVS Survey Instrument. Section non-participating.	204,000	1	3/60	10,200
Eligible Household (Completes Survey).	NISVS Survey Instrument. Section for participating.	30,000	1	25/60	12,500
Total					22,700

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–19958 Filed 9–19–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–17ABU]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled *Zika Reproductive Health Call-Back Survey (ZRHCS), Puerto Rico, 2017* to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 27, 2017 to obtain comments from the public and affected agencies. CDC received one general comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Zika Reproductive Health Call-Back Survey (ZRHCS), Puerto Rico, 2017—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In May 2015, the World Health Organization reported the first local mosquito born transmission of Zika virus in the Western Hemisphere, with autochthonous cases identified in Brazil. In response to the Zika virus outbreak, and evidence that Zika virus infection during pregnancy is a cause microcephaly and other adverse pregnancy and infant outcomes, CDC activated its Emergency Operations Center to its highest level on February 8, 2016 and continues to engage in Zika virus operations.

To date, Puerto Rico has reported the highest number of Zika virus cases of any area within the United States, with the Puerto Rico Department of Health (PRDH) reporting more than 40,000 cases of Zika virus infection, including 3,757 cases in pregnant women. Given the adverse pregnancy and birth outcomes associated with Zika virus infection during pregnancy and the current lack of a vaccine, it is important for women who are at risk of becoming pregnant unintentionally, or who are planning a pregnancy, to be knowledgeable about the potential outcomes of Zika virus infection. In addition, it is important for them to practice effective pregnancy prevention behaviors when they do not desire pregnancy and to prevent mosquito-borne and sexual transmission of Zika virus.

This is a request for a new information collection. CDC requests one additional year of clearance to continue the Emergency information collection, ''Emergency Zika Package: Zika Reproductive Health Survey, Puerto Rico, 2017,'' approved by the Office of Management and Budget (OMB) in July 2017 (OMB Control Number 0920–1188).

The objective of this assessment is to collect current information on various aspects of Zika knowledge and prevention behaviors from a representative sample of adult women in Puerto Rico. Information will be collected on the following topics: (1) Knowledge of and adherence to mosquito prevention strategies, and (2) use of condoms to minimize the risk of sexual transmission of Zika, and (3) behaviors practiced by women who wish to avoid or delay pregnancies that help them prevent unintended pregnancies that might otherwise be affected by Zika. CDC will rapidly summarize and analyze the information collected for the Puerto Rico Department of Health to determine the need for further refinements in educational messaging and allocation of resources, as established during the first season of the Zika outbreak. There is no cost to respondents other than the time to participate. The total estimated annual burden hours are 117.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Women aged 18–49 years who completed the main PR–BRFSS survey.	Recruitment text	645	1	1/60
Women aged 18–49 years who completed the main PR–BRFSS survey agree to participate in the call-back survey.	Call-back Survey and Consent.	581	1	10/60
PR–BRFSS Coordinators	Data Submission Layout	1	3	3

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–19957 Filed 9–19–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–1122; Docket No. CDC–2017–0070]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on reinstatement of the data collection project titled ''Congenital Heart Surveillance to Recognize Outcomes, Needs and well-being (CHSTRONG).'' CDC collects CHSTRONG data to provide public health question insight, aid in the development of services, and inform for the proper allocation of resources to improve long-term health and wellbeing.

DATES: Written comments must be received on or before November 20, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0070 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

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 of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Congenital Heart Survey To Recognize Outcomes, Needs, and well-being (CH STRONG) (OMB Control Number: 0920–1122, Expiration 07/31/2017)—Reinstatement with change—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Congenital heart defects (CHDs) are the most common type of structural birth defects, affecting approximately 1 in 110 live-born children. In prior decades, many CHDs were considered fatal during infancy or childhood, but with tremendous advances in pediatric cardiology and cardiac surgery, at least 85% of patients now survive to adulthood and there are approximately 1.5 million adults with CHD living in the United States.

With vast declines in mortality from pediatric heart disease over the past 30 years, it is vital to evaluate long-term outcomes and quality of life issues for adults with CHD. However, U.S. data on long-term outcomes, quality of life issues, and comorbidities of adults born with CHD are lacking. U.S. data is needed to provide insight into the public health questions that remain for this population and to develop services and allocate resources to improve long-term health and wellbeing.

The initial request for this project was one year, but there was a delay in recruitment that results in a change in the recruitment process. Therefore, an additional 24 months is being requested. The three sites decided to conduct more intensive and time-consuming tracking and tracing to identify more accurate contact information for all eligible individuals. In addition to more intensive tracking and tracing, the sites decided to send recruitment materials in batches rather than all at once. This ensured that problems with the recruitment process were caught immediately and could be modified in subsequent rounds of recruitment. Due to these delays and changes in recruitment process, CH STRONG data collection is expected to last an additional 24 months and conclude two years after receiving an extension from OMB.

For this project, we will use data from U.S. state birth defect surveillance systems to identify a population-based sample of individuals 18 to 45 years of age born with CHD. We will then use an automated process of searching state databases and online search engines, as well as have individuals perform more time-intensive online searches to find current addresses for those eligible participants and mail surveys to them inquiring about their barriers to health care, quality of life, social and educational outcomes, and transition of care from childhood to adulthood. The information collected from this population-based survey will be used to inform current knowledge, allocate resources, develop services, and, ultimately, improve long-term health of adults born with CHD.

We estimate sending a survey to 4,183 individuals with CHD over a 2-year period, and receiving completed surveys from 2,928 individuals (70%). The survey takes approximately 20 minutes to complete. The contact information form takes approximately two minutes to complete. There are no costs to participants other than their time. The total estimated annual burden hours are 711.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Individuals aged 18–45 years who were born with a congenital heart defect.	Survey questionnaire	2,092	1	20/60	697
English-speaking mothers of respondents.	Contact Information Form—English	356	1	2/60	12
Spanish-speaking mothers of respondents.	Contact Information Form—Spanish	63	1	2/60	2
Total					711

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–20008 Filed 9–19–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Administration for Children & Families (ACF) Electronic Case Management System (ECMRS).

OMB No.: Revision of 0970–0461.

Description: The recent climatic events of Hurricane Harvey and Hurricane Irma have created catastrophic disasters in Texas, Louisiana, Puerto Rico, U.S. Virgin Islands, and Florida. President Trump has declared these climatic events as major disaster declarations. FEMA is providing assistances to these states and territories under declaration numbers DR–4332 & DR–4337.

There are looming public health issues related to flooding, and especially among at risk populations. Risks include contracting water-borne and vector-borne diseases, substance abuse, and mental health concerns, including PTSD, depression, anxiety, and homelessness.

Therefore, it is essential for the mission of ACF to activate the Immediate Disaster Case Management (IDCM) Electronic Case Management Record System (ECMRS). The ECMRS will be used to collect and manage information from the disaster affected clients. This information includes demographics, disaster caused unmet needs, and referrals provided. The information collected is critical to develop a recovery plan for each survivor.

Respondents: Clients.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Immediate Disaster Case Management	406,500	1	1	406,500

Additional Information: ACF is requesting that OMB grant a 180-day approval for this information collection under procedures for emergency processing by September 22, 2017. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Robert Sargis at (202) 690–7275. Email address: *rsargis@acf.hhs.gov.*

Comments and questions about the information collection described above should be directed to the following address by September 22, 2017. Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project, Desk Officer for ACF.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2017–20022 Filed 9–19–17; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Availability of Final Policy Document

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Health Center Program Compliance Manual (Compliance Manual) has been developed as a comprehensive, significantly streamlined, and web-based guidance document to assist health centers in understanding and demonstrating compliance with Health Center Program requirements. As such, this guidance document will reduce burden for current and prospective health centers and look-alikes and further strengthen HRSA's oversight of the Health Center and Health Center Federal Tort Claims Act (FTCA) Programs. It also responds to recommendations contained within the Government Accountability Office report, *Health Center Program: Improved Oversight Needed to Ensure Grantee Compliance with Requirements,* GAO–12–546, for increased transparency, clarity, and consistency in Health Center Program oversight.

The Bureau of Primary Health Care (BPHC) released a draft Compliance Manual on August 23, 2016, for a 90-day public comment period. Individuals and groups submitted over 700 comments regarding the draft Compliance Manual. After thorough review and consideration of all comments received, HRSA made a substantial number of updates to the Compliance Manual to incorporate suggestions and requests for further clarification. HRSA has also posted a summary of comments for each corresponding section and chapter of the Compliance Manual and HRSA's responses to these comments. HRSA's ''Summary of Comments and HRSA Responses on the Draft Health Center Program Compliance Manual'' is available online at *https://bphc.hrsa.gov/programrequirements/pdf/healthcentercompliancemanual-comments.pdf.* The Compliance Manual, which was effective August 28, 2017, is available online at *https://bphc.hrsa.gov/programrequirements/pdf/healthcentercompliancemanual.pdf.* All Health Center Program non-regulatory policy issuances that remain in effect after release of the Compliance Manual are listed in Appendix A of the Compliance Manual. With the exception of these policies, the Compliance Manual supersedes other previous Health Center Program non-regulatory policy issuances related to Health Center Program compliance or eligibility requirements.

FOR FURTHER INFORMATION CONTACT: For questions regarding this notice, contact HRSA/BPHC at *https://www.hrsa.gov/about/contact/bphc.aspx.*

SUPPLEMENTARY INFORMATION:

Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866, emphasizing the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year), and a ''significant'' regulatory action is subject to review by the Office of Management and Budget (OMB).

Executive Order 13771, entitled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. Section 2(a) of Executive Order 13771 requires an agency, unless prohibited by law, to identify at least two existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this requirement, section 2(c) of Executive Order 13771 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations. OMB's interim guidance issued on February 2, 2017, explains that for fiscal year 2017 the above requirements only apply to each new ''significant regulatory action that imposes costs.'' It has been determined that the Compliance Manual is not a ''significant regulatory action that imposes costs'' and thus does not trigger the above requirements of Executive Order 12866 or of Executive Order 13771.

Background

HRSA provides grants to eligible applicants under section 330(e), (g), (h), and/or (i) of the Public Health Service (PHS) Act, as amended (42 U.S.C. 254b), to support the delivery of preventive and primary care services to medically underserved communities and vulnerable populations. Nearly 1,400 Health Center Program-funded health centers operate approximately 10,400 service delivery sites that provide care to nearly 26 million patients in every U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and the Pacific Basin. Note that for the purposes of the Compliance Manual, the term ''health center'' refers to entities that receive a federal award under section 330 of the PHS Act, as amended, grant subrecipients, and organizations designated as look-alikes, unless otherwise stated within the Compliance Manual. Look-alikes, as described in Sections 1861(aa)(4)(B) and 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(4)(B) and 42 U.S.C. 1396d(l)(2)(B)(iii)), do not receive a Health Center Program award but must meet the Health Center Program statutory and regulatory requirements. Organizations designated as look-alikes are eligible for payment as a Federally Qualified Health Center under Medicare, Medicaid, and the State Children's Health Insurance Program (CHIP), as well as participation in the 340B Drug Pricing Program and the National Health Service Corps Program.

HRSA also makes determinations of deemed PHS employment status for health centers funded under section 330 (including subrecipients), which also extends to certain statutorily eligible ''covered individuals,'' for purposes of providing liability protections under the Health Center Federal Tort Claims Act (FTCA) Program. A favorable FTCA deeming determination requires approval by HRSA of an application submitted by the Health Center Program awardee in the form and manner specified by HRSA. Health centers may also sponsor individual health professional volunteers for such protections. Sections 224(g)–(n) and (q) of the PHS Act (42 U.S.C. 233(g)–(n), and (q)) authorize the Health Center FTCA Program and afford eligibility for FTCA coverage as the exclusive civil remedy for acts or omissions arising within the scope of deemed federal employment in the performance of medical, surgical, dental, or related functions.

The Compliance Manual restates the Health Center Program's statutory and regulatory requirements and provides guidance on how health centers would demonstrate compliance with such requirements to HRSA. However, the Compliance Manual also allows health centers to submit alternative means of demonstrating compliance with the specified Health Center Program requirements. All means of demonstrating compliance are subject to HRSA review and approval.

Organizations receiving Health Center Program federal awards, including subrecipients, continue to be subject to all requirements incorporated within terms and conditions stated in Notices of Funding Opportunity, Notices of Award, and other applicable laws, regulations, and policies, as well as the distinct statutory, regulatory, and policy requirements of other federal programs in which they participate.

Dated: September 13, 2017.

George Sigounas,

Administrator.

[FR Doc. 2017–19938 Filed 9–19–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0121]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

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 extension of a currently approved collection of information or new 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 20, 2017.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0121 in the body of the letter, the agency name and Docket ID USCIS–2014–0008. 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–2014–0008;

(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–2014–0008 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:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

(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 and Households, Businesses and Organizations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 56,000 Respondents × (.50) 30 minutes per response.

(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 28,000 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 $0.

Dated: September 14, 2017.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017–19974 Filed 9–19–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–52]

30-Day Notice of Proposed Information Collection: Housing Discrimination Information Form (''HUD–903.1'')

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comment Due Date:* October 20, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Inez C. Downs at *Inez.C.Downs@hud.gov* or telephone 202–402–8046. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Downs.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 7, 2017 at 82 FR 31618.

A. Overview of Information Collection

Title of Information Collection: Housing Discrimination Information Form (''HUD–903.1'').

OMB Approval Number: 2529–0011.

Type of Request: Extension of a currently approval information collection.

Form Number: Form HUD–903.1 (English), Form HUD–903.1A (Spanish), Form HUD–903.1B (Chinese), Form HUD–903.1C (Arabic), Form HUD–903.1F (Vietnamese), Form HUD–903.1CAM (Cambodian), Form HUD–903.1KOR (Korean), Form HUD–903.1RUS (Russian), and Form HUD–903–1_(Somali).

Description of the need for the information and proposed use: HUD uses the Housing Discrimination Information Form HUD–903.1 (Form) to collect pertinent information from persons wishing to file housing discrimination complaints with HUD under the Fair Housing Act. The Fair Housing Act makes it unlawful to discriminate in the sale, rental, occupancy, advertising, or insuring of residential dwellings; or to discriminate in residential real estate-related transactions; or in the provision of brokerage services, based on race, color, religion, sex, handicap [disability], familial status, or national origin.

Any person who claims to have been injured by a discriminatory housing practice, or any person who believes that he or she will be injured by a discriminatory housing practice that is about to occur, may file a complaint with HUD not later than one year after the alleged discriminatory housing practice occurs or terminates. The Form promotes consistency in the collection of information necessary to contact persons who file housing discrimination complaints with HUD. It also aids in the collection of information necessary for initial assessments of HUD's authority to investigate alleged discriminatory housing practices under the Fair Housing Act. This information may subsequently be provided to persons against whom complaints are filed [''respondents''], as required under section 810(a)(1)(B)(ii) of the Fair Housing Act.

Respondents (i.e., affected public): Individuals or households; businesses or other for-profit, not-for-profit institutions; State, Local, or Tribal Governments.

Estimation of the total number of hours needed to prepare the information collection, including the number of respondents, frequency of response, and hours of responses: During FY 2016, HUD staff received approximately 14,216 information submissions from persons wishing to file housing discrimination complaints with HUD. Telephone contacts accounted for 1,548 of this total. The remaining 12,668 complaint submissions were transmitted to HUD by mail, in-person, by email, and via the Internet. HUD estimates that an aggrieved person requires approximately 45 minutes in which to complete this Form. The Form is completed once by each aggrieved person. Therefore, the total number of annual burden hours for this Form is 9,501 hours.

12,668 × 1 (frequency) × .45 minutes (.75 hours) = 9,501 hours.

Annualized cost burden to complainants: HUD does not provide postage-paid mailers for this information collection. Accordingly, persons who choose to submit this Form to HUD by mail must pay the prevailing cost of First Class Postage. As of the date of this Notice, the annualized cost burden per person, based on a one-time submission of this Form to HUD via First Class Postage, is Forty-Nine Cents ($0.49) per person. During FY 2016, FHEO staff received approximately 3,450 submissions of potential complaint information by mail. Based

on this number, HUD estimates that the total annualized cost burden for aggrieved persons who submit this Form to HUD by mail is $1,690.50. Aggrieved persons also may submit this Form to HUD in person, by facsimile, by email, or electronically via the Internet.

Status of the proposed information collection: Renewal of a currently approved collection of pertinent information from persons wishing to file Fair Housing Act complaints with HUD.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including using appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 13, 2017.

Inez C. Downs,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–19941 Filed 9–19–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–54]

30-Day Notice of Proposed Information Collection for Public Comment on the: ConnectHome Expansion Data Collection

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 20, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

Email: OIRA_Submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna Guido at *Anna.Guido@hud.gov* or telephone 202–402–5535. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: ConnectHome Expansion Data Collection.

OMB Approval Number: 2528–Pending.

Type of Request: New collection.

Description of the need for the information and proposed use: The purpose of this effort is to support communities who ''take-up'' the ConnectHome Challenge to close the digital divide among HUD-assisted households. The ConnectHome Challenge will call on Mayors, County Executives, Tribal Leaders, Housing Agencies and other Housing Providers, and other community leaders to agree to close the digital divide among HUD-assisted households.

In signing on to The ConnectHome Challenge, a community is committing, among other things, to: (1) Establish (possibly in collaboration with their local knowledge institutions) baseline estimates of the percent of HUD-assisted households with in-home high-speed Internet that is not reliant on a smartphone; (2) collaborate with local stakeholders to establish performance targets for increasing in-home high-speed Internet adoption; (3) establish and share with HUD the local strategies for achieving in-home high-speed Internet adoption targets; and (4) develop and execute an implementation plan and share progress with HUD.

Information Collection	Number of Respondents	Frequency of Responses	Responses Per Annum	Burden Hour Per Response	Annual Buden Hours	Hourly Cost per Response	Annual Cost
Commitment Letter	300	1	300	0.25	75	$30.00	$2,250
Application	300	1	300	0.75	225	$30.00	$6,750
Implementation Plan	300	1	300	3.00	900	$30.00	$27,000
Implementation Plan Update	300	4	1,200	2.00	2,400	$30.00	$72,000
Baseline Survey	2,500	1	2,500	0.08	200	$15.00	$3,000
Focus Group Questionnaire	600	2	1,200	0.33	396	$30.00	$11,880
Telephone Surveys	2,500	4	10,000	0.33	3,300	$15.00	$49,500
Total	6,800				7,496		$172,380

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 12, 2017.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–19937 Filed 9–19–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–53]

30-Day Notice of Proposed Information Collection: Multifamily Contractor's Mortgagor's Cost Breakdowns and Certifications

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 20, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Inez. C. Downs@hud.gov,* or telephone 202–402–8046. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Downs.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 14, 2017 at 82 FR 32570.

A. Overview of Information Collection

Title of Information Collection: Multifamily Contractor's Mortgagor's Cost Breakdowns and Certifications.

OMB Approval Number: 2502–0044.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92458 Rent Schedule—Low Rent Housing.

Description of the need for the information and proposed use: Contractors use the form HUD–2328 to establish a schedule of values of construction items on which the monthly advances or mortgage proceeds are based. Contractors use the form HUD–92330–A to convey actual construction costs in a standardized format of cost certification. In addition to assuring that the mortgage proceeds

have not been used for purposes other than construction costs, HUD–92330–A further protects the interest of the Department by directly monitoring the accuracy of the itemized trades on form HUD–2328. This form also serves as project data to keep Field Office cost data banks and cost estimates current and accurate. HUD–2205A is used to certify the actual costs of acquisition or refinancing of projects insured under Section 223(f) program.

Respondents (i.e., affected public): Business or other for profit. Not for profit institution.

Estimated Number of Respondents: 1,668.

Estimated Number of Responses: 1,668.

Frequency of Response: 1.

Average Hours per Response: 19.

Total Estimated Burden: 12,224.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 13, 2017.

Inez C. Downs,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–19940 Filed 9–19–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2017–0049; FXIA16710900000–178–FF09A30000]

Foreign Endangered and Threatened Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered and threatened species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before October 20, 2017.

ADDRESSES: *Submitting Comments:* You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–IA–2017–0049.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2017–0043; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

When submitting comments, please indicate the name of the applicant and the PRT# you are commenting on. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

Viewing Comments: Comments and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095.

FOR FURTHER INFORMATION CONTACT: Joyce Russell, Government Information Specialist, Division of Management Authority, U.S. Fish and Wildlife Service Headquarters, MS: IA; 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2023; facsimile 703–358–2280.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **FOR FURTHER INFORMATION CONTACT**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; Jan. 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

We invite the public to comment on applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (16 U.S.C. 1531 *et seq.;* ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

Applicant: Matthew Barber, University of Oregon, Eugene, OR; PRT–38968C

The applicant requests a permit to purchase in interstate commerce cell lines of gorilla (*Gorilla gorilla*), bonobo (*Pan paniscus*), and Borneo orangutan (*Pongo pygmaeus*) from Coriell Institute for Medical Research, Camden, NJ, for the purpose of scientific research. This notification is for a single interstate commerce transaction.

Applicant: William Montgomery, Elgin, TX; PRT–65009A

The applicant requests renewal of a captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata*) to enhance species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Mario Gutierrez, San Antonio, TX; PRT–32933C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata*) to enhance species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period

Applicant: New Mexico State University, Las Cruces, NM; PRT–36123C

The applicant requests a permit to import scientific samples from captive-bred blue-throated macaw (*Ara glaucogularis*) from the United Kingdom, for scientific research. This notification is for a single import.

Applicant: Point Defiance Zoo & Aquarium, Tacoma, WA; PRT–31674C

The applicant requests authorization to import 16 clouded leopards (*Neofelis nebulosa*) from Thailand to enhance propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Little Rock Zoological Gardens, Little Rock, AR; PRT–680316

The applicant requests a renewal and amendment to a captive-bred wildlife registration under 50 CFR 17.21(g) for cheetah (*Acinonyx jubatus*) and chimpanzee (*Pan troglodytes*) to enhance species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Zoo of Acadiana, LLC, WA; PRT–209126

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance species propagation or survival: Scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), brown lemur (*Eulemur fulvus*), black lemur (*Eulemur macaco*), ring-tailed lemur (*Lemur catta*), black and white ruffed lemur (*Varecia variegata*), red ruffed lemur (*Varecia rubra*), Diana monkey (*Cercopithecus diana*), lion-tailed macaque (*Macaca silenus*), white-handed gibbon (*Hylobates lar*), leopard (*Panthera pardus*), salmon-crested cockatoo (*Cacatua moluccensis*), white cockatoo (*Cacatua alba*), military macaw (*Ara militaris*), Bactrian camel (*Camelus bactrianus*), African lion (*Panthera leo*), tiger (*Panthera tigris*), and clouded leopard (*Neofelis nebulosa*). This notification covers activities to be conducted by the applicant over a 5-year period.

Trophy Applicants

The following applicants each request a permit to import sport-hunted trophies of a male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

Applicant: John Thomas, Kootenai, ID; PRT–32052C

Applicant: Joseph F. Mandola, Columbus, TX; PRT–39695C

Applicant: David R. Puck, Double Oak, TX; PRT–36319C

IV. Next Steps

If the Service decides to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the **Federal Register** notice announcing the permit issuance date by searching *regulations.gov* under the permit number listed in this document.

V. Public Comments

You may submit your comments and materials concerning this notice by one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax or to an address not listed in **ADDRESSES**.

If you submit a comment via *regulations.gov*, your entire comment, including any personal identifying information, will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

We will post all hardcopy comments on *regulations.gov*.

VI. Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Joyce Russell,

Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2017–19983 Filed 9–19–17; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–571–572 and 731–TA–1347–1348 (Final)]

Biodiesel From Argentina and Indonesia; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos.

701–TA–571–572 and 731–TA–1347–1348 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of biodiesel from Argentina and Indonesia, provided for in subheadings 3826.00.10 and 3826.00.30 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce to be subsidized. Determinations with respect to imports of biodiesel alleged to be sold at less than fair value are pending.

DATES: August 28, 2017.

FOR FURTHER INFORMATION CONTACT: Nathanael N. Comly (202) 205–3174, Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.— For purposes of these investigations, the Department of Commerce has defined the subject merchandise as a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, including biologically-based waste oils or greases, and other biologically-based oil or fat sources. The investigations cover biodiesel in pure form (B100) as well as fuel mixtures containing at least 99 percent biodiesel by volume (B99). For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of the investigations.

Background.—The final phase of these investigations is being scheduled pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Argentina and Indonesia of biodiesel. The investigations were requested in petitions filed on March 23, 2017, by National Biodiesel Board Fair Trade Coalition (Washington, DC), and its individual members.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 27, 2017, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, November 9, 2017, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 2, 2017. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on November 7, 2017, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is November 2, 2017. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is November 16, 2017. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before November 16, 2017. On November 29, 2017, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 1, 2017, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf,*

elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 15, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–20020 Filed 9–19–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–573–574 and 731–TA–1349–1358 (Final)]

Wire Rod From Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the United Arab Emirates, and the United Kingdom; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty and antidumping duty investigation Nos. 701–TA–573–574 and 731–TA–1349–1358 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of wire rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the United Arab Emirates, and the United Kingdom, provided for in subheadings 7213.91.30, 7213.91.45, 7213.91.60, 7213.99.00, 7227.20.00, and 7227.90.60 of the Harmonized Tariff Schedule of the United States. The Department of Commerce (''Commerce'') has preliminarily determined imports of wire rod to be subsidized by the governments of Italy and Turkey (82 FR 41931 and 82 FR 41929). Determinations with respect to imports of wire rod alleged to be sold at less than fair value are pending.

DATES: September 5, 2017.

FOR FURTHER INFORMATION CONTACT: Justin Enck ((202) 205–3363), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as, ''certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, less than 19.00 mm in actual solid cross-sectional diameter. Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high-nickel steel; (d) ball bearing steel; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (*i.e.,* products that contain by weight one more of the following elements: 0.1 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorous, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope'' (82 FR 41933).

Background.—The final phase of these investigations is being scheduled pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Italy and Turkey of wire rod. The investigations were requested in petitions filed on March 28, 2017 by Charter Steel, Saukville, Wisconsin; Gerdau Ameristeel US Inc., Tampa, Florida; Keystone Consolidated Industries, Inc., Peoria, Illinois; and Nucor Corporation, Charlotte, North Carolina.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on November 2, 2017,

and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, November 16, 2017, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 9, 2017. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on November 15, 2017, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is November 9, 2017. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is November 27, 2017. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before November 27, 2017. On December 13, 2017, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 15, 2017, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued September 15, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–20021 Filed 9–19–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Reusable Diapers, Components Thereof, and Products Containing the Same, DN 3250;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Cotton Babies, Inc. on September 14, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain reusable diapers, components thereof, and products containing the same. The complaint names as respondents Alvababy.com of China; Shenzhen Adsel Trading Co., Ltd. d/b/a Alva of China; and Huizhou Huapin Garment Co., Ltd. of China. The complainant requests that the Commission issue a general and/or limited exclusion order and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register.** There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3250'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.
Issued: September 14, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–19972 Filed 9–19–17; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

TIME AND DATE: 12:00 a.m., Tuesday, September 26, 2017.

PLACE: U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Determination on FOUR original jurisdiction cases.

CONTACT PERSON FOR MORE INFORMATION: Jacqueline Graham, Staff Assistant to the Chairman, U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC 20530, (202) 346–7001.

Dated: September 18, 2017.

J. Patricia W. Smoot,

Chairman, U.S. Parole Commission.

[FR Doc. 2017–20135 Filed 9–18–17; 4:15 pm]

BILLING CODE 4410–31–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (17–066)]

NASA Astrophysics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Advisory Committee. This Committee reports to the Director, Astrophysics Division, Science Mission Directorate, NASA Headquarters. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Wednesday, October 18, 2017, 11:00 a.m.–5:00 p.m.; and Thursday, October 19, 2017, 11:00 a.m.–5:00 p.m., Eastern Daylight Time (EDT).

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, fax (202) 358–2779, or *khenderson@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the USA toll free conference call number 1–888–994–3814 or toll number 1–415–228–5004, passcode 1833244, to participate in this meeting by telephone on both days. The WebEx link is *https://nasa.webex.com/;* the meeting number on October 18 is 398 593 188, password is APAC@101819; and the meeting number on October 19 is 397 999 523, password is APAC@101819.

The agenda for the meeting includes the following topics:

- Astrophysics Division Update
- Updates on Specific Astrophysics Missions
- Reports from the Program Analysis Groups
- Update on the Astrophysics Research & Analysis Program

The agenda will be posted on the Astrophysics Advisory Committee Web page: *https://science.nasa.gov/researchers/nac/science-advisory-committees/apac.*

It is imperative that the meeting be held on this date to accommodate the

scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017–20045 Filed 9–19–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

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

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 2 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Sherry P. Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *hales@arts.gov,* or call 202/682–5696.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of July 5, 2016, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The Upcoming Meetings Are:

Creativity Connects (review of applications): This meeting will be closed.

Date and time: October 20, 2017; 11:00 a.m. to 1:00 p.m.

Creativity Connects (review of applications): This meeting will be closed.

Date and time: October 20, 2017; 3:00 p.m. to 5:00 p.m.

Dated: September 15, 2017.

Sherry P. Hale,

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2017–20006 Filed 9–19–17; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–458; NRC–2017–0141]

River Bend Station, Unit 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Intent to conduct scoping process and prepare environmental impact statement; public meeting and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission will conduct a scoping process to gather the information necessary to prepare an environmental impact statement (EIS) to evaluate the environmental impacts for renewal of the operating license for River Bend Station, Unit 1 (River Bend). The NRC is seeking stakeholder input on this action and has scheduled a public meeting.

DATES: Submit comments by October 23, 2017. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Meeting date: September 19, 2017, 7:00 p.m. to 9:00 p.m., St. Francisville, LA.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0141. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop TWFN–8–D36M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Elaine Keegan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8517, email: *Elaine.Keegan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0141 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0141.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned. The application for renewal of the River Bend license is available in ADAMS under Accession No. ML17153A285. The supplemental information which the NRC staff requested in order to complete the acceptance review is available in ADAMS under Accession No. ML17213A064.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0141 in the subject line of your comment submission in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit

comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

By letter dated May 25, 2017, Entergy Operations, Inc. (Entergy) submitted to the NRC an application for renewal of Facility Operating License NPF–47 for an additional 20 years of operation at River Bend, further supplemented by letter dated August 1, 2017. River Bend is located in St. Francisville, LA. The current operating license for River Bend expires on August 29, 2025. The application for renewal was submitted pursuant to part 54 of title 10 of the *Code of Federal Regulations* (10 CFR) and included an environmental report (ER), which was also supplemented. A separate notice of receipt and availability of the application was published in the **Federal Register** on June 28, 2017 (82 FR 29344). A notice of acceptance for docketing of the supplemented application and opportunity for hearing regarding renewal of the facility operating license was published in the **Federal Register** on August 14, 2017 (82 FR 37908). A revised notice of acceptance for docketing was published in the **Federal Register** on September 6, 2017 (82 FR 42126) to correct the name of the local library where members of the public can review the LRA and ER.

III. Request for Comments

This notice informs the public of the NRC's intention to prepare an EIS related the license renewal application and to provide the public an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29.

The regulations in 36 CFR 800.8, ''Coordination with the National Environmental Policy Act,'' allows agencies to use their National Environmental Policy Act of 1969 (NEPA) process to fulfill the requirements of Section 106 of the National Historic Preservation Act (NHPA). Therefore, pursuant to 36 CFR 800.8(c), the NRC intends to use its process and documentation for the preparation of the EIS on the proposed action to comply with Section 106 of the NHPA in lieu of the procedures set forth at 36 CFR 800.3 through 800.6.

In accordance with 10 CFR 51.53(c) and 10 CFR 54.23, Entergy submitted the ER as part of the application. To complete the acceptance review of the license renewal application, the applicant provided additional supplemental information needed to support the staff's technical review of the proposed action (license renewal). The ER and supplemental information were prepared pursuant to 10 CFR part 51 and are publicly available in ADAMS under Accession Nos. ML17156A093 and ML17213A064, respectively. The ER may also be viewed on the Internet at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html.* In addition, a paper copy of the license renewal application, including the ER, is available to the public near the site at the West Feliciana Parish Library, 5114 Burnett Road, St. Francisville, Louisiana 70775.

The NRC intends to gather the information necessary to prepare a plant-specific supplement to the NRC's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants,'' (NUREG–1437) related to the application for renewal of the River Bend operating license for an additional 20 years.

Possible alternatives to the proposed action include no action and reasonable alternative energy sources. The NRC is required by 10 CFR 51.95 to prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with NEPA and the NRC's regulations found at 10 CFR part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in the scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action, which is to be the subject of the supplement to the GEIS;

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth;

c. Identify and eliminate from detailed study those issues that are peripheral, are not significant, or were covered by a prior environmental review;

d. Identify any environmental assessments and other ElSs that are being or will be prepared that are related to, but are not part of, the scope of the supplement to the GEIS being considered;

e. Identify other environmental review and consultation requirements related to the proposed action;

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule;

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies; and

h. Describe how the supplement to the GEIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

a. The applicant, Entergy;

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or that is authorized to develop and enforce relevant environmental standards;

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards;

d. Any affected Indian tribe;

e. Any person who requests or has requested an opportunity to participate in the scoping process; and

f. Any person who has petitioned or intends to petition for leave to intervene.

IV. Public Scoping Meeting

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold a public meeting for the River Bend license renewal supplement to the GEIS. The scoping meeting will be held on September 19, 2017. The meeting will be held from 7:00 p.m. to 9:00 p.m. at the Town Hall Meeting Room of the St. Francisville Town Hall, 11936 Ferdinand Street, St. Francisville, Louisiana 70775. There will be a registration period from 6:30 p.m. to 7:00 p.m. for members of the public to sign in to speak.

The meeting will be transcribed and will include: (1) An overview by the NRC staff of the NEPA environmental review process, the proposed scope of the supplement to the GEIS, and the

proposed review schedule; and (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. To be considered, comments must be provided either at the transcribed public meeting or in writing, as discussed in the **ADDRESSES** section of this notice.

Members of the public may register to speak during the registration period prior to the start of the meeting. Individual oral comments may be limited by the time available, depending on the number of persons who register. Public comments will be considered in the scoping process for the supplement to the GEIS.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

Dated at Rockville, Maryland, this 14th day of September 2017.

For the Nuclear Regulatory Commission.

Benjamin G. Beasley,

Chief, Environmental Review and Project Management Branch, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–19984 Filed 9–19–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on NuScale; Notice of Meeting

The ACRS Subcommittee on NuScale will hold a meeting on September 20, 2017, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Wednesday, September 20, 2017—8:30 a.m. Until 12:00 p.m.

The Subcommittee will review applicability of the AREVA fuel methodology to the NuScale design certification application. The Subcommittee will hear presentations by and hold discussions with the NRC staff, NuScale staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Michael Snodderly (Telephone 301–415–2241 or Email: *Michael.Snodderly@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 17, 2016, (81 FR 71543).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: September 11, 2017.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2017–20035 Filed 9–19–17; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Hispanic Council on Federal Employment

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Hispanic Council on Federal Employment (Council) meeting will be held on Tuesday, October 31, 2017 at the following time and location shown below:

Time: 10:30 a.m. to 12:00 p.m.

Location: Office of Personnel Management, 1900 E St. NW., Washington, DC 20415, Executive Conference Room.

The Council is an advisory committee composed of representatives from Hispanic organizations and senior government officials. Along with its other responsibilities, the Council shall advise the Director of the Office of Personnel Management on matters involving the recruitment, hiring, and advancement of Hispanics in the Federal workforce. The Council is co-chaired by the Director of the Office of Personnel Management and the Chair of the National Hispanic Leadership Agenda (NHLA).

The meeting is open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to present material to the Council at any of the meetings. The manner and time prescribed for presentations may be limited, depending upon the number of parties that express interest in presenting information.

FOR FURTHER INFORMATION CONTACT: Zina Sutch, Director, for the Office of Diversity and Inclusion, Office of Personnel Management, 1900 E St. NW., Suite 5H35, Washington, DC 20415. Phone (202) 606–2433, Fax (202) 606–6012, or email at *Zina.Sutch@opm.gov.*

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–19995 Filed 9–19–17; 8:45 am]

BILLING CODE 6820–B2–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2017–199 and CP2017–302; MC2017–200 and CP2017–303; MC2017–201 and CP2017–304; MC2017–202 and CP2017–305; CP2017–306]

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 21, 2017 and September 22, 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: The September 21, 2017 comment due date applies to Docket Nos. MC2017–199 and CP2017–302; MC2017–200 and CP2017–303; MC2017–201 and CP2017–304; MC2017–202 and CP2017–305). The September 22, 2017 comment due date applies to Docket No. CP2017–306.

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I. Introduction
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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).:* MC2017–199 and CP2017–302; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 356 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 13, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Katalin K. Clendenin; *Comments Due:* September 21, 2017.

2. *Docket No(s).:* MC2017–200 and CP2017–303; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 357 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 13, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Katalin K. Clendenin; *Comments Due:* September 21, 2017.

3. *Docket No(s).:* MC2017–201 and CP2017–304; *Filing Title:* Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 57 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 13, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* September 21, 2017.

4. *Docket No(s).:* MC2017–202 and CP2017–305; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 51 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 13, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* September 21, 2017.

5. *Docket No(s).:* CP2017–306; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 8 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* September 13, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* September 22, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–19979 Filed 9–19–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017–307; CP2017–308; CP2017–309]

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 22, 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:

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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).:* CP2017–307; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 8 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* September 14, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* September 22, 2017.

2. *Docket No(s).:* CP2017–308; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 8 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* September 14, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* September 22, 2017.

3. *Docket No(s).:* CP2017–309; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* September 14, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Jennaca D. Upperman; *Comments Due:* September 22, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–20027 Filed 9–19–17; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81614; File No. SR–CBOE–2017–060]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

September 14, 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 September 1, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, 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 amend its Fees Schedule. Specifically, the Exchange proposes to adopt a discount in the form of a cap on transaction fees for Market-Maker, Broker-Dealer, Non-Trading Permit Holder Market-Maker, Professional/Voluntary Professional and Joint Back-Office executions in VIX.

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule. Specifically, the Exchange proposes to adopt a discount in the form of a cap on transaction fees for Market-Maker, Broker-Dealer, Non-Trading Permit Holder Market-Maker, Professional/Voluntary Professional and Joint Back-Office (*i.e.,* ''M'', ''B'', ''N'', ''W'' and ''J'' origin codes) executions in VIX (the ''VIX Large Trade Discount''). Particularly, regular transaction fees will only be charged for up to 250,000 VIX options contracts per order for Market-Makers, Broker-Dealers, Non-Trading Permit Holder Market-Makers, Professional/Voluntary Professionals and Joint Back-Offices.[3] The Exchange notes that the proposed VIX Large Trade Discount is similar to the Customer Large Trade Discount (''CLTD'') program which places a cap on the quantity of Customer contracts (*i.e.,* ''C'' origin code) that are assessed transaction fees in certain options classes, including VIX.[4] Like the CLTD program, the Large Trade Discount will apply both in the Regular Trading Hours (''RTH'') Session and the Extended Trading Hours (''ETH'') Session, but for an order to be eligible to qualify for the discount, the order in its entirety must be executed in either RTH or ETH, but not both).[5] Also

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The discount will be on transaction fees only. Other fees, such as the Index License Surcharge, will not be discounted.

[4] *See* CBOE's Fees Schedule, Customer Large Trade Discount program.

[5] The Exchange notes that the trading sessions has separate order books and require separate logins for access, and as there is no ''rolling'' of orders by the Exchange between the two sessions, in order to be eligible to qualify for the VIX Large Trade Discount,

like the CLTD program, qualification of an order for the fee cap is based on the trade date and order ID on each order. For complex orders, the total contracts of an order (all legs by underlying symbol) are counted for purposes of calculating the fee cap. To qualify for the discount, the entire order quantity must be tied to a single order ID (unless the order is a complex order with a number of legs that exceeds system limitations) either within the CBOE Command system or PULSe or in the front end system used to enter and/or transmit the order (provided the Exchange is granted access to effectively audit such front end system) (the order must be entered in its entirety on one system so that the Exchange can clearly identify the total size of the order). For an order entered via PULSe or another front end system, or a complex order with multiple order IDs, a request must be submitted to the Exchange within 3 business days of the transactions and must identify all necessary information, including the order ID and related trade details. Lastly, as noted above, only regular transaction fees are capped. To avoid potential confusion, however the Exchange proposes to make clear that floor brokerage fees are not subject to the cap on fees.

The Exchange proposes to adopt the VIX Large Trade Discount in order to incentivize the sending of large VIX orders. The greater liquidity and trading volume that the proposed cap encourages would benefit all market participants trading VIX options.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders.

The Exchange believes that adopting the VIX Large Trade Discount is reasonable because Market-Makers, Broker-Dealers, Non-Trading Permit Holder Market-Makers, Professional/Voluntary Professionals and Joint Back-Offices participants (*i.e.,* non-Customer, non-Firm market participants) will receive a discount for very large trades that they would not otherwise receive, which promotes and encourages larger VIX executions on the Exchange. This change is equitable and not unfairly discriminatory because all non-Customer, non-Firm market participants whose large trades qualify for the discount in VIX will receive it. The Exchange believes it's equitable and not unfairly discriminatory to adopt a cap on transaction fees for VIX and not other products because the Exchange desires to encourage VIX trading, which, along with bringing greater VIX options trading opportunities to all market participants [sic]. The Exchange believes that it is not unfairly discriminatory to not apply the proposed cap to Customers, as Customers are eligible for a discount on VIX discount under the CLTD program. The Exchange believes that it is not unfairly discriminatory to not apply the proposed VIX Large Trade Discount program to Firms (*i.e.,* Clearing Trading Holder Proprietary, ''F'' and ''L'' origin codes), as Firms are eligible for discounts on VIX under the CBOE Clearing Trading Permit Holder Proprietary Products Sliding Scales.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while the cap does not apply to Customers and Firms, other incentive programs already exist for those market participants with respect to VIX trading. Additionally, the proposed change is designed to encourage increased VIX options volume, which provides greater trading opportunities for all market participants. The Exchange believes that the proposed rule change will not cause an unnecessary burden on intermarket competition because VIX is only traded on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

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 Act[9] and paragraph (f) of Rule 19b–4[10] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–060 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2017–060. 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

an order must be executed in its entirety in either RTH or ETH, but not partly in both.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2017–060 and should be submitted on or before October 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19966 Filed 9–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81616; File Nos. SR–CHX–2017–11; SR–FINRA–2017–020]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Changes, as Modified by Amendments, To Adopt a Consolidated Audit Trail Fee Dispute Resolution Process

September 14, 2017.

I. Introduction

On June 5, 2017 [1] and June 19, 2017,[2] Chicago Stock Exchange, Inc. (''CHX'') and Financial Industry Regulatory Authority, Inc. (''FINRA'') (each, ''SRO'' or ''Participant;'' collectively, the ''Participants'') [3] filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [4] and Rule 19b–4 thereunder,[5] proposed rule changes to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[6] The proposed rule change submitted by CHX was published for comment in the **Federal Register** on June 19, 2017.[7] The proposed rule change submitted by FINRA was published for comment in the **Federal Register** on July 6, 2017.[8] Pursuant to Section 19(b)(2) of the Act,[9] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the proposed rule changes.[10] The Commission received no comments in response to the proposed rule changes. On September 6, 2017, CHX filed Amendment No. 1 to its proposed rule change,[11] and on September 13, 2017, FINRA filed Amendment No. 2 to its proposed rule change.[12] This order approves the proposed rule changes, as modified by the Amendments.[13]

II. Description of the Proposed Rule Changes, as Modified by the Amendments [14]

The Participants filed with the Commission, pursuant to Section 11A of the Act [15] and Rule 608 of Regulation

[11] 17 CFR 200.30–3(a)(12).

[1] Chicago Stock Exchange, Inc. filed its proposed rule change on June 5, 2017.

[2] Financial Industry Regulatory Authority, Inc. filed its proposed rule change on June 19, 2017.

[3] The Commission notes that Bats BYX Exchange, Inc. (''Bats BYX''), Bats BZX Exchange, Inc. (''Bats BZX''), Bats EDGA Exchange, Inc. (''Bats EDGA''), Bats EDGX Exchange, Inc. (''Bats EDGX''), BOX Options Exchange LLC (''BOX''), C2 Options Exchange, Inc., Chicago Board Options Exchange, Incorporated (''CBOE''), Investors Exchange LLC (''IEX''), Nasdaq ISE, LLC (''ISE''), Nasdaq MRX, LLC (''MRX''), Miami International Securities Exchange, LLC (''MIAX''), MIAX PEARL, LLC, The NASDAQ Stock Market LLC (''Nasdaq''), NASDAQ BX, Inc. (''BX''), Nasdaq GEMX, LLC (''GEMX''), NASDAQ PHLX LLC (''Phlx''), New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc. (''NYSE Arca''), NYSE MKT LLC (''NYSE MKT'') and NYSE National, Inc. are also deemed ''Participants'' for purposes of this Order as they, like CHX and FINRA, are also Participants of the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan''). *See infra* note 17. The Commission also notes that CHX refers to Participants of the Plan as ''Plan Participants'' in its proposal.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] Bats BYX, Bats BZX, Bats EDGA, Bats EDGX, BOX, CBOE, IEX, ISE, MRX, MIAX, Nasdaq, BX, GEMX, Phlx, NYSE, NYSE Arca and NYSE MKT also submitted proposed rule changes to establish procedures for resolving potential disputes related to CAT Fees charged to Industry Members. *See* Securities Exchange Act Release Nos. 80780 (May 26, 2017), 82 FR 25382 (June 1, 2017); 80781 (May 26, 2017), 82 FR 25369 (June 1, 2017); 80782 (May 26, 2017), 82 FR 25379 (June 1, 2017); 80837 (June 1, 2017), 82 FR 26526 (June 7, 2017); 80836 (June 1, 2017), 82 FR 26539 (June 7, 2017); 80834 (June 1, 2017), 82 FR 26542 (June 7, 2017); 80835 (June 1, 2017), 82 FR 26549 (June 7, 2017); 80833 (June 1, 2017), 82 FR 26529 (June 7, 2017); 80831 (June 1, 2017), 82 FR 26536 (June 7, 2017); 80832 (June 1, 2017), 82 FR 26523 (June 7, 2017); 80936 (June 15, 2017), 82 FR 28153 (June 20, 2017); 80952 (June 16, 2017), 82 FR 28540 (June 22, 2017); 80967 (June 19, 2017), 82 FR 28719 (June 23, 2017); 80968 (June 19, 2017), 82 FR 28705 (June 23, 2017); 80970 (June 19, 2017), 82 FR 28708 (June 23, 2017); 80971 (June 19, 2017), 82 FR 28698 (June 23, 2017); and 80966 (June 19, 2017), 82 FR 28702 (June 23, 2017).

[7] *See* Securities Exchange Act Release No. 80916 (June 13, 2017), 82 FR 27904 (''Notice'').

[8] *See* Securities Exchange Act Release No. 81053 (June 29, 2017), 82 FR 31366.

[9] 15 U.S.C. 78s(b)(2).

[10] *See* Securities Exchange Act Release No. 81163 (July 18, 2017), 82 FR 34343 (July 24, 2017); 81275 (August 1, 2017), 82 FR 36836 (August 7, 2017). *See also* Securities Exchange Act Release No. 81110 (July 10, 2017), 82 FR 32598 (July 14, 2017); 81112 (July 10, 2017), 82 FR 32592 (July 14, 2017); 81113 (July 10, 2017), 82 FR 32596 (July 14, 2017); 81156 (July 18, 2017), 82 FR 34337 (July 24, 2017); 81157 (July 18, 2017), 82 FR 34338 (July 24, 2017); 81158 (July 18, 2017), 82 FR 34339 (July 24, 2017); 81159 (July 18, 2017), 82 FR 34338 (July 24, 2017); 81161 (July 18, 2017), 82 FR 34337 (July 24, 2017); 81162 (July 18, 2017), 82 FR 34336 (July 24, 2017); 81164 (July 18, 2017), 82 FR 34346 (July 24, 2017); 81165 (July 18, 2017), 82 FR 34345 (July 24, 2017); 81166 (July 18, 2017), 82 FR 34345 (July 24, 2017); 81167 (July 18, 2017), 82 FR 34337 (July 24, 2017); 81178 (July 20, 2017), 82 FR 34715 (July 26, 2017); 81179 (July 20, 2017), 82 FR 34716 (July 26, 2017); 81180 (July 20, 2017), 82 FR 34728 (July 26, 2017); and 81181 (July 20, 2017), 82 FR 34727 (July 26, 2017).

[11] Amendment No. 1 is available on the Commission's Web site for CHX at: *https://www.sec.gov/comments/sr-chx-2017-11/chx201711-2433023-161039.pdf*.

[12] Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety. Amendment No. 2 is available on the Commission's Web site for FINRA at: *https://www.sec.gov/comments/sr-finra-2017-020/finra2017020-2442749-161061.pdf*.

[13] The Amendments amended the original filings to make technical changes to the proposed rule changes. Specifically, each Participant amended the proposed rule text to remove references to proposed ''Consolidated Audit Trail Funding Fees,'' as such fees are currently suspended, and replaced such term with the phrase ''any fees contemplated by the CAT NMS Plan and imposed on Industry Members pursuant to [SRO] Rules.'' *See infra* note 18. Each Participant also removed references to ''Consolidated Audit Trail Funding Fees'' from paragraphs (a)(1), (b) and (c)(1) of the proposed rule text. The Amendments are not subject to notice and comment because they are technical amendments that do not materially alter the substance of the proposed rule changes or raise any novel regulatory issues. The Commission notes that on August 30, 2017, the Commission approved the proposed rule changes filed by the other Participants to the CAT NMS Plan to establish procedures for resolving potential disputes related to CAT Fees charged to Industry Members, as modified by such amendments. *See* Securities Exchange Act Release No. 81500 (August 30, 2017), 82 FR 42143 (September 6, 2017) (order approving proposed rule changes by Bats BYX, Bats BZX, Bats EDGA, Bats EDGX, BOX, CBOE, IEX, ISE, MRX, MIAX, Nasdaq, BX, GEMX, Phlx, NYSE, NYSE Arca and NYSE MKT to adopt a Consolidated Audit Trail Fee Dispute Resolution Process), at 42144 n.19. *See also supra* note 6.

[14] The Commission notes that for purposes of this Order, unless otherwise specified, capitalized terms used in this Order are defined as set forth in the proposals, as modified by the Amendments, or in the CAT NMS Plan. *See supra* notes 11–12; *see also infra* note 17.

[15] 15 U.S.C. 78k–1.

NMS thereunder,[16] the CAT NMS Plan.[17] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (''Company''), of which each Participant is a member, to operate the CAT.

Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has the discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants and Industry Members will pay (''CAT Fees'').[18] Section 11.5 of the CAT NMS Plan requires the Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or a designated Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or a designated Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the Commission pursuant to Rule 608[19] or in any other appropriate forum. The Participants filed the proposed rule changes to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Fee Dispute Resolution

The proposals state that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, pursuant to the Fee Dispute Resolution Procedures adopted by the Operating Committee pursuant to the CAT NMS Plan.[20] The proposals further indicate that decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the Commission or in any other appropriate forum.[21]

Under the Fee Dispute Resolution Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees.[22] The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought.[23] In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified under the Fee Dispute Resolution Procedures.[24]

The Participants state that the Company will refer applications for hearing and review promptly to the Fee Review Subcommittee designated by the Operating Committee with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Fee Dispute Resolution Procedures.[25] The proposals note that the Fee Review Subcommittee will keep a record of the proceedings.[26]

The proposals further specify that the Fee Review Subcommittee will hold hearings promptly and will set a hearing date.[27] Under the proposed rule changes, the parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the hearing, and each party will have the right to inspect and copy the other party's materials prior to the hearing.[28]

The Participants state that the parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant.[29] The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings under the proposed rule changes.[30]

The proposals further indicate that the Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing.[31] Each of the parties will be permitted, under the proposed rule changes, to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee.[32] In addition, the Fee Review Subcommittee will have the right to question all parties and witnesses to the proceeding.[33] The proposals require the Fee Review Subcommittee to keep a record of the hearing, to set forth its decision in writing, and to send the written decision to the parties to the proceeding.[34] Such decisions must contain the reasons supporting the conclusions of the Fee Review

[16] 17 CFR 242.608.

[17] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015. The Plan was published for comment in the **Federal Register** on May 17, 2016, and approved by the Commission, as modified, on November 15, 2016. *See* Securities Exchange Act Release Nos. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016); 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

[18] Section 11.1(b) of the CAT NMS Plan. The Commission notes that the Participants filed proposed rule changes to adopt fees to be charged to Industry Members, including Industry Members that are Execution Venues. *See* Securities Exchange Act Release Nos. 80691 (May 16, 2017), 82 FR 23344 (May 22, 2017); 80710 (May 17, 2017), 82 FR 23639 (May 23, 2017). *See also* Securities Exchange Act Release Nos. 80675 (May 15, 2017), 82 FR 23100 (May 19, 2017); 80697 (May 16, 2017), 82 FR 23398 (May 22, 2017); 80692 (May 16, 2017), 82 FR 23325 (May 22, 2017); 80696 (May 16, 2017), 82 FR 23439 (May 22, 2017); 80693 (May 16, 2017), 82 FR 23363 (May 22, 2017) 80698 (May 16, 2017), 82 FR 23457 (May 22, 2017); 80694 (May 16, 2017), 82 FR 23416 (May 22, 2017); 80721 (May 18, 2017), 82 FR 23864 (May 24, 2017); 80713 (May 18, 2017), 82 FR 23956 (May 24, 2017); 80715 (May 18, 2017), 82 FR 23895 (May 24, 2017); 80726 (May 18, 2017), 82 FR 23915 (May 24, 2017); 80725 (May 18, 2017), 82 FR 23935 (May 24, 2017); 80785 (May 26, 2017), 82 FR 25404 (June 1, 2017); 80784 (May 26, 2017), 82 FR 25448 (June 1, 2017); 80809 (May 30, 2017), 82 FR 25837 (June 5, 2017); 80822 (May 31, 2017), 82 FR 26148 (June 6, 2017); and 80821 (May 31, 2017), 82 FR 26177 (June 6, 2017). On June 30, 2017, the Commission temporarily suspended the proposed rule changes and instituted proceedings to determine whether to approve or disapprove the proposed rule changes. *See* Securities Exchange Act Release No. 81067, 82 FR 31656 (July 7, 2017).

[19] 17 CFR 242.608.

[20] *See, e.g.,* Notice, *supra* note 7, at 27905. The Participants also represent that the Fee Dispute Resolution Procedures were modeled after the adverse action procedures adopted by various exchanges and that such Procedures will be posted on the CAT NMS Plan Web site (*www.catnmsplan.com*). *See, e.g., id.*

[21] *See, e.g., id.*

[22] *See, e.g., id.*

[23] *See, e.g., id.*

[24] *See, e.g., id.*

[25] *See, e.g., id.* The Participants further indicate that the members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. *See, e.g., id.*

[26] *See, e.g., id.*

[27] *See, e.g., id.*

[28] *See, e.g., id.*

[29] *See, e.g., id.*

[30] *See, e.g., id.*

[31] *See, e.g., id.* The proposed rule changes note, however, that the formal rules of evidence will not apply.

[32] *See, e.g., id.*

[33] *See, e.g., id.*

[34] *See, e.g., id.*

Subcommittee under the proposed rule changes.[35]

The Participants state that the decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision.[36] The applicant's petition for review must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections.[37] According to the proposed rule changes, any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded.[38] The proposed rule changes allow parties to petition to submit a written argument to the Operating Committee and to request an opportunity to make an oral argument before the Operating Committee.[39] The Operating Committee will then have sole discretion to grant or deny either request.[40]

Under the proposed rule changes, any review conducted by the Operating Committee will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order.[41] Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee.[42] The Participants state that the decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding, and will be final.[43]

A final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company.[44] The proposed rule changes indicate, however, that the Operating Committee may extend the 90-day time limit at its discretion.[45] The Fee Dispute Resolution Procedures also state that any time limits for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee.[46]

Finally, the Participants state that an Industry Member that files a written application with the Company disputing CAT Fees in accordance with the Fee Dispute Resolution Procedures is not required to pay such CAT Fees until the dispute is resolved in accordance with the Procedures, including any review by the Commission or in any other appropriate forum.[47] The Participants state that, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.[48]

III. Discussion and Commission Findings

After carefully considering the proposed rule changes, the Commission finds that the proposals, as modified by the Amendments, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and national securities associations.[49] Specifically, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5)[50] and Section 15A(b)(6)[51] of the Act, which require, among other things, that the rules of a national securities exchange or national securities association be designed to prevent fraudulent and manipulative acts and practices, 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, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. In addition, the Commission finds that the proposed rule changes are consistent with Section 6(b)(8)[52] and Section 15A(b)(9)[53] of the Act, which require that the rules of a national securities exchange or national securities association not impose any burden on competition that is not necessary or appropriate.

The Commission believes that the proposals are consistent with Section 6(b)[54] and Section 15A(b)[55] of the Act in general, and furthers the objectives of Section 6(b)(5)[56] and Section 15A(b)(6)[57] of the Act in particular, because they are 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 providing a uniform mechanism by which Industry Members may dispute CAT Fees and receive a timely review of such disputes. The Commission notes that the Fee Dispute Resolution Procedures provide for a hearing before the Fee Review Subcommittee, and if the Industry Member is not satisfied with the decision of the Fee Review Subcommittee, it may request a review of the decision by the Operating Committee. Further, the proposals provide that, although the decisions of the Operating Committee or Fee Review Subcommittee are binding on an Industry Member, the Industry Member may seek redress from the Commission or in any other appropriate forum.

The Commission also notes that the proposals implement Section 11.5 of the CAT NMS Plan.[58] Specifically, Section 11.5 states that the Participants will adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to Article XI of the CAT NMS Plan be determined by the Operating Committee or a designated Subcommittee. Section 11.5 further provides that such fee disputes will be determined by the Operating Committee or a designated Subcommittee, and that decisions on such matters will be binding on Industry Members without prejudice to the rights of any Industry Member to seek redress from the

[35] *See, e.g., id.*

[36] *See, e.g., id.* at 27905–27906.

[37] *See, e.g., id.* at 27906.

[38] *See, e.g., id.*

[39] *See, e.g., id.*

[40] *See, e.g., id.*

[41] *See, e.g., id.*

[42] *See, e.g., id.*

[43] *See, e.g., id.*

[44] *See, e.g., id.*

[45] *See, e.g., id.*

[46] *See, e.g., id.*

[47] *See, e.g., id.* The Participants clarify that the Industry Member may only withhold any invoiced CAT Fees that the Industry Member has disputed; under the proposed rule changes, the Industry Member must pay any invoiced CAT Fees that are not disputed when such fees are due, as set forth in the invoice. *See, e.g., id.*

[48] *See, e.g., id.*

[49] In approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f). The Commission notes that on August 30, 2017, the Commission approved the proposed rule changes filed by the other Participants to the CAT NMS Plan to establish procedures for resolving potential disputes related to CAT Fees charged to Industry Members, as modified by such amendments. *See* Securities Exchange Act Release No. 81500 (August 30, 2017), 82 FR 42143 (September 6, 2017).

[50] 15 U.S.C. 78f(b)(5).

[51] 15 U.S.C. 78*o*–3(b)(6).

[52] 15 U.S.C. 78f(b)(8).

[53] 15 U.S.C. 78*o*–3(b)(9).

[54] 15 U.S.C. 78f(b).

[55] 15 U.S.C. 78*o*–3(b).

[56] 15 U.S.C. 78f(b)(5).

[57] 15 U.S.C. 78*o*–3(b)(6).

[58] The Commission previously approved the CAT NMS Plan. *See supra* note 17.

Commission pursuant to Rule 608 of Regulation NMS or in any other appropriate forum.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (SR–CHX–2017–11; SR–FINRA–2017–020), as modified by the Amendments, are approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[59]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19968 Filed 9–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81610; File No. SR–ISE–2017–82]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate Third Party Developer Fees From the Schedule of Fees

September 14, 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, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to eliminate third party developer fees from the Schedule of Fees.

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 proposed rule change is to eliminate third party developer fees from the Schedule of Fees. Currently, the Schedule of Fees contains third party developer fees, which were previously charged for third party developer access to the ISE T7 test environment. Specifically, the Schedule of Fees includes the following fees for third party developers: (1) A $1,000 per month one time set-up fee, and (2) a $1,000 per month usage fee. With the migration of the Exchange to Nasdaq INET technology,[3] which was completed on July 31, 2017, and the upcoming decommissioning of the T7 trading system, including the test environment, the Exchange no longer charges these third party developer fees. The Exchange therefore proposes to remove these fees from the Schedule of Fees. The Exchange believes that removing these fees from the Schedule of Fees will reduce member confusion about services offered by the Exchange, and the fees charged for those services, as with the migration to Nasdaq INET no services are currently offered that could incur these charges.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed fee change is reasonable, equitable, and not unfairly discriminatory as it eliminates third party developer fees that are no longer charged with the migration of the Exchange's trading system to Nasdaq INET technology. As explained above, the Exchange completed its migration to Nasdaq INET on July 31, 2017 and therefore does not provide access to the ISE T7 test facility that was the subject of this fee. Since the Exchange no longer provides this service, the Exchange believes that removing the associated fee from the Schedule of Fees will reduce member confusion about services offered by the Exchange, and the fees charged for those services.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange is removing outdated third party developer fees from the Schedule of Fees as the related services will no long be offered with the completed migration of the Exchange to Nasdaq INET. As such, the Exchange does not believe that the proposed rule change will have any significant impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[6] and Rule 19b–4(f)(2)[7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[59] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR–ISE–2017–03).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

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–2017–82 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2017–82. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2017–82 and should be submitted on or before October 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19963 Filed 9–19–17; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81613; File No. SR–CBOE–2017–061)

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Correct an Inadvertent Marking Error in the Fees Schedule

September 14, 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 September 6, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule to correct an inadvertent marking error made to the Exhibit 5 in a previous rule filing. Specifically, on January 27, 2017, the Exchange filed a rule filing, SR–CBOE–2017–011, which proposed to expand the Marketing Fee program to Lead Market-Makers and also make certain clarifications to Footnote 6 of the Fees Schedule (which governs the Marketing Fee program), effective February 1, 2017.[5]

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 80003 (February 9, 2017), 82 FR 10846 (February 15, 2017) (SR–CBOE–2017–011).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to correct an inadvertent marking error made to the Exhibit 5 in a previous rule filing. Specifically, on January 27, 2017, the Exchange filed a rule filing, SR–CBOE–2017–011, which proposed to expand the Marketing Fee program to Lead Market-Makers and also make certain clarifications to Footnote 6 of the Fees Schedule (which governs the Marketing Fee program), effective February 1, 2017.[6] The Exchange notes that it mistakenly used outdated text contained in Footnote 6 of the Fees Schedule in the Exhibit 5 of that filing. Particularly, prior to filing SR–CBOE–2017–011, Footnote 6 included the statement that ''. . . the marketing fee shall not apply to DJX, MXEA, MXEF, MNX, NDX, XSP or Underlying Symbol List A (34) excluding binaries options.''[7] The Exhibit 5 filed in SR–CBOE–2017–011 however, inadvertently left out the reference to ''MXEA, MXEF, MNX, NDX'' in that same sentence. The Exchange notes that it was not its intention to start including those products in the Marketing Fee program and also notes that no such change was otherwise referenced or implied in the 19b–4 of SR–CBOE–2017–011 or any other filing since then.[8] Rather it was an inadvertent mistake that the Exchange seeks to correct. Accordingly, the Exchange proposes to add back the

[6] *See* Securities Exchange Act Release No. 80003 (February 9, 2017), 82 FR 10846 (February 15, 2017) (SR–CBOE–2017–011).

[7] *See* Securities Exchange Act Release No. 76923 (January 15, 2016), 81 FR 3841 (January 22, 2016) (SR–CBOE–2016–002), which rule filing was the last rule filing before SR–CBOE–2017–011 to amend Footnote 6 of the Fees Schedule.

[8] *See* Securities Exchange Act Release No. 80003 (February 9, 2017), 82 FR 10846 (February 15, 2017) (SR–CBOE–2017–011).

reference to ''MXEA, MXEF, MNX, NDX'' to the sentence in Footnote 6 that lists the excluded option classes from the marketing fee. No substantive changes are being made by the proposed rule change.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] requirements that the rules of an 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes correcting an inadvertent marking error from a previous rule filing in order to accurately reflect the option classes that are excluded from the marketing fee will alleviate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system and protecting 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 that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the proposed change is merely intended to correct an inadvertent marking error made in a previous rule filing, which will alleviate potential confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given 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,[11] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[15] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the five day refiling requirement and the 30-day operative delay so that the Exchange may immediately correct the Fees Schedule. The Commission notes that the proposed rule change does not present any new, unique or substantive issues, but rather is merely correcting an error and that waiver of the five-day prefiling requirement and the 30-day operative delay will help prevent potential confusion to market participants as to CBOE's intended applicability of the marketing fee. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposed rule change as operative upon filing.[16]

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.

[11] The Exchange has satisfied this requirement.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] *Id.*

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the five-day prefiling requirement and the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–061 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–CBOE–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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2017–061 and should be submitted on or before October 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19965 Filed 9–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81612; File No. SR–NYSE–2017–47]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List

September 14, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 7, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List for equity transactions in stocks with a per share stock price more than $1.00 to (1) revise the credit for Designated Market Makers (''DMMs'') for Mid-Point Passive Liquidity (''MPL'') Orders that provide liquidity to the Exchange, and (2) make certain non-substantive, clarifying changes. The Exchange proposes to implement the proposed changes on September 7, 2017.[4] The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to (1) revise the credit for DMMs for MPL Orders that provide liquidity to the Exchange, and (2) make certain non-substantive, clarifying changes.

The proposed changes would only apply to transactions in securities priced $1.00 or more.

The Exchange proposes to implement these changes to its Price List effective September 7, 2017.

Proposed Rule Change

The Exchange proposes the following changes to its Price List.

Verbal Interest at the Close

The current Price List provides that the Exchange charges $0.0010 for verbal interest on the close. The Price List also provides that non-electronic agency transactions of Floor brokers that execute at the close are not charged.

The Exchange would delete the current entry providing that there is no charge for non-electronic agency transactions of Floor brokers that execute at the close. This entry was inadvertently not deleted when the Exchange adopted the current charge for verbal interest on the close.[5] Deleting obsolete and duplicative material would add clarity to the Exchange's Price List.

At the Opening Orders

The Exchange currently charges $0.0010 for at the opening or at the opening only orders that are ''credited to both sides.'' The Exchange proposes to replace ''At the opening or at the opening only orders'' with ''Executions at the Open.'' The Exchange would also delete ''credited to.'' The Exchange believes that the reference is redundant and unnecessary.

Credits for MPL Orders

An MPL Order is an undisplayed limit order that trades at the mid-point of the best protected bid (''PBB'') and best protected offer (''PBO''), as such terms are defined in Regulation NMS Rule 600(b)(57) (together, ''PBBO'').

The Exchange proposes changes to the Price List to consolidate and streamline presentation of the credits for MPL orders that provide liquidity to the Exchange. Currently, credits for MPL orders that provide liquidity to the Exchange, excluding MPL Orders from DMMs and Supplemental Liquidity Providers (''SLP''), are set forth separately from the related credits for MPL orders that add liquidity to the Exchange applicable to SLPs. The credit amounts and qualifications for SLP and non-SLP MPL orders that add liquidity to the Exchange are the same.

In order to consolidate these provisions, the Exchange proposes to delete (1) the phrase ''and Supplemental Liquidity Providers ('SLPs')'' from the provision governing credits for MPL orders that provide liquidity to the Exchange so as not to exclude SLP MPL orders, and (2) the SLP fees for MPL orders that add liquidity to the Exchange found under the heading ''Credit Applicable to Supplemental Liquidity Providers ('SLPs')'' of the Price List in their entirety. No substantive change would be effected since, as noted, the amount of the credits and qualifications for SLP and non-SLP MPL orders that add liquidity to the Exchange are currently the same and would remain unchanged.

DMM MPL Orders

The Exchange currently provides a credit of $0.0030 to DMMs for executions of MPL Orders in securities priced $1.00 or more that provide liquidity to the NYSE. The Exchange proposes to revise the credit to DMMs to $0.00275.

* * * * *

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Price List Schedule on August 29, 2017 (SR–NYSE–2017–45) and withdrew such filing on September 7, 2017.

[5] *See* Securities Exchange Act Release No. 77929 (May 26, 2016), 81 FR 35406 (June 2, 2016).

[6] 15 U.S.C. 78f(b).

6(b)(4) and (5) of the Act,[7] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed non-substantive changes to its Price List deleting obsolete entry relating to non-electronic agency transactions of Floor brokers at the close; clarifying that the charge for at the opening or at the opening only orders are ''credited'' to both sides; replacing ''At the opening or at the opening only orders'' with ''Executions at the Open''; and consolidating and streamlining the presentation of the credits for MPL orders that provide liquidity to the Exchange are designed to provide greater specificity and clarity to the Price List, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. Eliminating obsolete and redundant material also reduces potential confusion and adds transparency and clarity to the Exchange's rules, thereby ensuring that members, regulators, and the public can more easily navigate and understand the Exchange's rulebook.

Finally, the Exchange believes that the proposed change to the credit for DMMs for MPL Orders that provide liquidity to the Exchange to $0.00275 per share is reasonable because the credit is in line with the best credit for member organizations of $0.00275 when the member organization has Adding ADV[8] in MPL orders that is at least 0.140% of NYSE CADV.[9] The proposed $0.00275 credit is also comparable to credits provided by other markets. For example, NASDAQ's best credit to add non-displayed midpoint liquidity is $0.0025.[10] Moreover, the requirement is equitable and not unfairly discriminatory because DMMs on the Exchange have heightened quoting and other obligations that other market participants do not have. As such, it is equitable and not unfairly discriminatory to offer DMMs a credit that is in line with the best credit for other member organizations that do not have such obligations. The requirement is also equitable and not unfairly discriminatory because it would apply equally to all DMM firms.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the proposed rule change is designed to eliminate obsolete and redundant material from the Exchange's Price List and provide the public and investors with a Price List that is clear and transparent. Further, the Exchange believes that the proposed change to the credit for DMMs for MPL Orders would not place a burden on competition because the lower credit is comparable to credits provided by other exchanges.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[12] of the Act and subparagraph (f)(2) of Rule 19b–4[13] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2017–47 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

[7] 15 U.S.C. 78f(b)(4) & (5).

[8] ''Adding ADV'' is when a member organization has ADV that adds liquidity to the Exchange during the billing month. Adding ADV excludes any liquidity added by a DMM.

[9] NYSE CADV is defined in the Price List as the consolidated average daily volume of NYSE-listed securities.

[10] See NASDAQ Price List, available at *http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.*

[11] 15 U.S.C. 78f(b)(8).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR–NYSE–2017–47. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–47 and should be submitted on or before October 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19964 Filed 9–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81615; File No. SR–BOX–2017–30]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Market LLC (''BOX'') Options Facility

September 14, 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 September 1, 2017, BOX Options Exchange LLC (the ''Exchange'') 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 Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule on the BOX Market LLC (''BOX'') options facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX. Specifically, the Exchange proposes to (1) amend the BOX Volume Rebate (''BVR'') in Section I.B.2; (2) modify the fees and rebate for Qualified Contingent Cross [5] (''QCC'') Transactions in Section I.D.; and (3) make a clarifying change to in [sic] a footnote regarding the definition of ''Broker Dealer facilitating a Public Customer'' in Section II (Manual Transactions).

BVR

First, the Exchange proposes to adjust a rebate within the BVR. Under the BVR, the Exchange offers a tiered per contract rebate for all Public Customer PIP Orders and COPIP Orders of 100 and under contracts that do not trade solely with their contra order. Percentage thresholds are calculated on a monthly basis by totaling the Participant's PIP and COPIP volume submitted to BOX, relative to the total national Customer volume in multiply-listed options classes. The Exchange proposes to raise the rebate for COPIP Orders in Tier 4 from $0.06 to $0.08. The Exchange notes that is it not proposing any changes to the percentage thresholds within the BVR. The quantity submitted will continue to be calculated on a monthly basis by totaling the Participant's PIP and COPIP volume submitted to BOX, relative to the total national Customer volume in multiply-listed options classes.

The Exchange also proposes to amend the BVR to remove the flat $0.03 rebate for those Public Customer COPIP Orders of 100 and under contracts that trade solely with their contra order. Public Customer PIP Orders of 100 and under contracts that trade solely with their contra order will continue to receive a $0.03 rebate per contract, regardless of tier.

QCC Transactions

The Exchange then proposes to amend the QCC Transaction fees and rebate. Specifically, the Exchange proposes to decrease the fees for all non-Public Customer (Professional Customers, Broker Dealers and Market Makers) QCC Orders from $0.20 to $0.17 per contract side.[6] In addition, the Exchange proposes to decrease the QCC Rebate from $0.15 to $0.14 per contract.

Manual Transaction Fees

Finally, the Exchange also proposes to amend the footnote that defines a ''Broker Dealer facilitating a Public Customer'' in Section II (Manual Transactions) to clarify that the ''Broker Dealer facilitating a Public Customer'' account type and applicable fees will be applied, regardless of if the Broker Dealer clears in the customer range, or clears as a Broker Dealer. To do this, the Exchange proposes to amend the

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A QCC Order is an originating order (Agency Order) to buy or sell at least 1,000 standard option contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade, coupled with a contra side order to buy or sell an equal number of contracts.

[6] The Exchange notes that no changes will be made to Public Customer QCC Order fees.

definition to state that a ''Broker Dealer facilitating a Public Customer'' applies to any Manual transaction executed using the open outcry process involving Broker Dealer that has a Public Customer of that same Broker Dealer on the contra side of the transaction, or where the Broker Dealer and the Public Customer both clear through the same clearing firm and the Broker Dealer clears in the customer range. The additional language is intended to eliminate any potential for investor confusion with regard to the definition of ''Broker Dealer facilitating a Public Customer.'' A Broker Dealer who facilitates a Public Customer QOO Order for submission to the BOX Trading Floor will be eligible for this account type and applicable fee of $0.00, regardless of if the Broker Dealer cleared solely as a Broker Dealer or a Broker Dealer/Customer. The Exchange notes that clarifying language is substantially similar with the language at another exchange with an open outcry trading floor.[7]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

BVR

The Exchange believes the proposed amendments to the BVR in Section I.B.2 of the BOX Fee Schedule are reasonable, equitable and not unfairly discriminatory. The BVR was adopted to attract Public Customer order flow to the Exchange by offering these Participants incentives to submit their Public Customer PIP and COPIP Orders to the Exchange and the Exchange believes it is appropriate to now amend the BVR. The Exchange believes it is equitable and not unfairly discriminatory to amend the COPIP Rebate in Tier 4 of the BVR, as all Participants have the ability to qualify for a rebate, and rebates are provided equally to qualifying Participants. Other exchanges employ similar incentive programs;[9] and the Exchange believes that the proposed rebate change is reasonable and competitive when compared to rebate for the PIP in Tier 4 of the BVR and the rebates on other exchanges.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to no longer apply a flat $0.03 rebate to Public Customer COPIP Orders that trade solely with their contra order. As stated above, the BVR is intended to incentivize Participants to direct Customer order flow to the Exchange, and the Exchange believes unlike Public Customer PIP Orders, an incentive is not necessary for internalized Public Customer COPIP Orders that only trade against their contra order. The Exchange believes it is equitable and not unfairly discriminatory as all internalized Public Customer COPIP Orders will no longer receive a rebate. Additionally, other Exchanges also make this distinction when providing rebates for transactions in their complex order auction mechanisms.[10]

QCC

The Exchange believes that the proposed amendments to the QCC Order fees are reasonable, as they are in line with the amount assessed at another Exchange for similar transactions.[11] Further, the Exchange believes that charging Professional Customers and Broker Dealers and Market Makers more than Public Customers for QCC Orders is reasonable, equitable and not unfairly discriminatory. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. The Exchange believes that continuing to charge no fees to Public Customers in QCC transactions is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting Public Customer order flow.

The Exchange believes the proposed QCC Rebate for the originating side of the QCC transaction is reasonable, as it is in line with other competing exchanges that also provide a rebate on the originating side of a QCC Order.[12] The Exchange believes the proposed rebate is equitable and not unfairly discriminatory because it potentially applies to all Participants that enter the originating order (except for when both the agency order and contra-side orders are Public Customers) and because it is intended to incentivize the sending of more QCC Orders to the Exchange. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to not provide a rebate for the originating order for QCC transactions when both the originating order and contra side orders are from Public Customers, since Public Customers are already incentivized by having no transaction fee for QCC Orders.

Manual Transactions

Lastly, the Exchange believes that amending the language with regard to the definition of ''Broker Dealer facilitating a Public Customer'' is reasonable, equitable and not unfairly discriminatory, as it intended to clarify that a ''Broker Dealer facilitating a Public Customer'' applies to any Manual transaction executed using the open outcry process involving a Broker Dealer that has a Public Customer of that same Broker Dealer on the contra side of the transaction, or where the Broker Dealer and the Public Customer both clear through the same clearing firm and the Broker Dealer clears in the customer range. The wording of the previous definition unintentionally restricted the definition of ''Broker Dealer facilitating a Public Customer'' to those Broker Dealers clearing in the customer range. The Exchange is now proposing to clarify that the account type will apply regardless of how the Broker Dealer clears. The Exchange believes the proposed change is reasonable as it is substantially similar to the definition ''Broker Dealer facilitating a Public Customer'' account type found on another exchange with an open outcry trading floor.[13] Further, the Exchange believes the proposed language is equitable and not unfairly discriminatory as it seeks to clarify that ''Broker Dealer facilitating a Public Customer'' does not only apply to Broker Dealers who clear in the customer range.

[7] *See* NYSE Arca, Inc (''Arca'') Fee Schedule. The Exchange notes, however, that Arca's similar language includes reference to ''Firm Facilitation.'' Because BOX does not use or define the term ''Firm'' within the Fee Schedule and instead uses the term Broker Dealer. BOX does not intend to include ''Firm Facilitation'' within this definition.

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] *See* Section B of the PHLX Pricing Schedule entitled ''Customer Rebate Program;'' ISE Gemini's Qualifying Tier Thresholds (page 6 of the ISE Gemini Fee Schedule); and CBOE's Volume Incentive Program (VIP).

[10] *See* the International Securities Exchange (''ISE'') Fee Schedule, Complex Order Fees and Rebates on page 9. Under the ISE Fee Schedule the initiator receives a ''break-up'' rebate only for contracts that are submitted to their auction mechanism that do not trade with their contra order.

[11] *See* CBOE Fee Schedule. CBOE charges non-Public Customers $0.17 per contract and does not charge Public Customers.

[12] CBOE and the Miami International Securities Exchange LLX (''MIAX'') offer a $0.10 per contract credit or rebate paid on the initiating side of the QCC transaction.

[13] *See supra* note 7.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change amends the BVR to raise a rebate and no longer apply a rebate when the COPIP Order only trades with its contra order. The Exchange does not believe that the proposed changes burden competition and will instead help promote competition by providing additional incentives for market participants to submit customer order flow to BOX and thus, create a greater opportunity for retail customers to receive additional price improvement.

The Exchange believes this proposal will not cause unnecessary burden on intermarket competition because the proposed changes will actually enhance the competiveness of the Exchange relative to other exchanges which offer comparable fees and rebates for QCC transactions. To the extent that the proposed changes make the Exchange a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become market participants on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [14] and Rule 19b–4(f)(2) thereunder,[15] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BOX–2017–30 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–BOX–2017–30. 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–BOX–2017–30, and should be submitted on or before October 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19967 Filed 9–19–17; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4(f)(2).

[16] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15291 and #15292; TEXAS Disaster Number TX–00488]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Texas (FEMA–4332–DR), dated 09/04/2017.

Incident: Hurricane Harvey.

Incident Period: 08/23/2017 and continuing.

DATES: Issued on 09/12/2017.

Physical Loan Application Deadline Date: 11/03/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/04/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Texas, dated 09/04/2017, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Bee, Refugio

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–19970 Filed 9–19–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15298 and #15299; Puerto Rico Disaster Number PR–00029]

Presidential Declaration Amendment of a Major Disaster for the Commonwealth of Puerto Rico

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–4336—DR), dated September 10, 2017.

Incident: Hurricane Irma.

Incident Period: 09/05/2017 and continuing.

DATES: Issued on 09/12/2017.

Physical Loan Application Deadline Date: 11/09/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/11/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the Commonwealth of Puerto Rico, dated 09/10/2017, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Municipalities (Physical Damage and Economic Injury Loans): Canovanas, Loiza

Contiguous Municipalities (Economic Injury Loans Only):

Puerto Rico: Carolina, Gurabo, Juncos, Las Piedras, Rio Grande

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–20024 Filed 9–19–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15295; UTAH Disaster Number UT–00051 Declaration of Economic Injury]

Administrative Declaration of an Economic Injury Disaster for the State of Utah

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Utah, dated 09/11/2017.

Incident: Brian Head Fire.

Incident Period: 06/17/2017 through 07/11/2017.

DATES: Issued on 09/11/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/11/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Garfield, Iron

Contiguous Counties:

Utah: Beaver, Kane, Piute, San Juan, Washington, Wayne

Nevada: Lincoln

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere	3.215
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for economic injury is 152950.

The States which received an EIDL Declaration # are Utah, Nevada.

(Catalog of Federal Domestic Assistance Number 59008)

Linda E. McMahon,

Administrator.

[FR Doc. 2017–20000 Filed 9–19–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15302 and #15303; Florida Disaster Number FL–00130]

Presidential Declaration Amendment of a Major Disaster for the State of Florida

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Florida (FEMA–4337—DR), dated 09/10/2017.

Incident: Hurricane Irma.

Incident Period: 09/04/2017 and continuing.

DATES: Issued on 09/13/2017.

Physical Loan Application Deadline Date: 11/09/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/11/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Florida, dated 09/10/2017, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Citrus, Desoto, Glades, Hardee, Hendry, Hernando, Highlands, Indian River, Lake, Marion, Martin, Okeechobee, Osceola, Seminole, Sumter, Volusia

Contiguous Counties (Economic Injury Loans Only):

Florida: Levy

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–20033 Filed 9–19–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15296 and #15297; Hawaii Disaster Number HI–00041]

Administrative Declaration of a Disaster for the State of Hawaii

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Hawaii dated 09/11/2017.

Incident: Marco Polo Fire.

Incident Period: 07/14/2017.

DATES: Issued on 09/11/2017.

Physical Loan Application Deadline Date: 11/13/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/11/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Honolulu

Contiguous Counties: None

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.500
Homeowners without Credit Available Elsewhere	1.750
Businesses with Credit Available Elsewhere	6.610
Businesses without Credit Available Elsewhere	3.305
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.305
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15296 5 and for economic injury is 15297 0.

The State which received an EIDL Declaration # is Hawaii.

(Catalog of Federal Domestic Assistance Number 59008)

Linda E. McMahon,

Administrator.

[FR Doc. 2017–19999 Filed 9–19–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15300 and #15301; PUERTO RICO Disaster Number PR–00030]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the Commonwealth of Puerto Rico

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Puerto Rico (FEMA–4336–DR), dated 09/10/2017.

Incident: Hurricane Irma.

Incident Period: 09/05/2017 and continuing.

DATES: Issued on 09/12/2017.

Physical Loan Application Deadline Date: 11/09/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/11/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT:

A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Puerto Rico, dated 09/10/2017, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Municipalities: Adjuntas, Canovanas, Carolina, Guaynabo, Juncos, Loiza, Luquillo, Orocovis, Patillas, Utuado

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–19960 Filed 9–19–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15302 and #15303; Florida Disaster Number FL–00130]

Presidential Declaration Amendment of a Major Disaster for the State of Florida

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Florida (FEMA–4337–DR), dated 09/10/2017.

Incident: Hurricane Irma.

Incident Period: 09/04/2017 and continuing.

DATES: Issued on 09/13/2017.

Physical Loan Application Deadline Date: 11/09/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/11/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Florida, dated 09/10/2017, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Brevard, Orange, Pasco, Polk, Saint Lucie

Contiguous Counties (Economic Injury Loans Only):

Florida: Hernando, Indian River, Lake, Osceola, Seminole, Sumter

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–20026 Filed 9–19–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10131]

E.O. 13224 Designation of Tony-Lee Thulsie, aka Yakeen Thulsie, aka Yaqeen ibn Hernani, aka Yakeen, aka Simba as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Tony-Lee Thulsie, also known as Yakeen Thulsie, also known as Yaqeen ibn Hernani, also known as Yakeen, also known as Simba, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States. Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: August 28, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–20030 Filed 9–19–17; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice 10134]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy will hold a public meeting from 10:30 a.m. until 12:00 p.m., Thursday, September 28, 2017 at the U.S. Capitol Visitor Center (SVC) 212–10 (First St. NE., Washington, DC 20515).

The public meeting will be on the state and trajectory of public diplomacy. The session will include a presentation and discussion of key findings from the Commission's *2017 Comprehensive Annual Report on Public Diplomacy and International Broadcasting.*

This meeting is open to the public, Members and staff of Congress, the State Department, Defense Department, the media, and other governmental and non-governmental organizations. An RSVP is required. To attend and make any requests for reasonable accommodation, email Michelle Bowen at *BowenMC1@state.gov* by 5 p.m. on Monday, September 25, 2017. Please arrive for the meeting by 10:15 a.m. to allow for a prompt start.

The United States Advisory Commission on Public Diplomacy appraises U.S. Government activities intended to understand, inform, and influence foreign publics. The Advisory Commission may conduct studies, inquiries, and meetings, as it deems necessary. It may assemble and disseminate information and issue reports and other publications, subject to the approval of the Chairperson, in consultation with the Executive Director. The Advisory Commission may undertake foreign travel in pursuit of its studies and coordinate, sponsor, or oversee projects, studies, events, or other activities that it deems desirable and necessary in fulfilling its functions.

The Commission consists of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party. The President designates a member to chair the Commission.

The current members of the Commission are: Mr. Sim Farar of California, Chairman; Mr. William Hybl of Colorado, Vice Chairman; Ambassador Penne Korth-Peacock of Texas; Anne Terman Wedner of Illinois; and Ms. Georgette Mosbacher of New York. Two seats on the Commission are currently vacant.

This announcement will appear in the **Federal Register** less than 15 days prior to the meeting. The Department of State finds that there is an exceptional circumstance. This Advisory Committee meeting will be held on September 28th so that the Commission can consult with the current Acting Under Secretary of State for Public Diplomacy and Public Affairs, whose last business day with the Department will be the following day.

To request further information about the meeting or the U.S. Advisory Commission on Public Diplomacy, you may contact its Executive Director, Dr. Shawn Powers, at *PowersSM@state.gov.*

Shawn Powers,

Executive Director, Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 2017–20007 Filed 9–19–17; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF STATE

[Public Notice 10100]

60-Day Notice of Proposed Information Collection: Training/Internship Placement Plan

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to November 20, 2017.

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

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2017–0034'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: JExchanges@State.gov.*
- *Regular Mail:* Send written comments to: U.S. Department of State, ECA/EC, SA–5, Floor 5, 2200 C Street NW., Washington, DC 20522–0505, ATTN: Federal Register Notice Response.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to G. Kevin Saba, Director, Office of Policy and Program Support, Office of Private Sector Exchange, ECA/EC, SA–5, Floor 5, Department of State, 2200 C Street NW., Washington, DC 20522–

0505, who may be reached on 202–632–3206 or at *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Training/Internship Placement Plan.
- *OMB Control Number:* 1405–0170.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs, ECA/EC.
- *Form Number:* Form DS–7002.
- *Respondents:* Entities designated by the Department of State as sponsors of exchange visitor programs in the trainee or intern categories and U.S. businesses that provide the training or internship opportunity.
- *Estimated Number of Respondents:* 120.
- *Estimated Number of Responses:* 30,000.
- *Average Time Per Response:* 1.5 hours.
- *Total Estimated Burden Time:* 45,000 hours.
- *Frequency:* On occasion depending on the number of exchange participants annually.
- *Obligation to Respond:* Required to Obtain or Retain Benefits.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The collection is the continuation of information collected and needed by the Bureau of Educational and Cultural Affairs in administering the Exchange Visitor Program (J–NONIMMIGRANT) under the provisions of the Mutual Educational and Cultural Exchange Act of 1961, as amended. Trainee/Internship Placement Plans are to be completed by designated program sponsors. A Training/Internship Placement Plan is required for each trainee or intern participant. It will set forth the training or internship program to be followed, methods of supervision, the skills the trainee or intern will obtain, and trainee or intern remuneration. The plan must be signed by the trainee or intern, sponsor, and the third party placement organization, if a third party organization is used in the conduct of the training or internship. Upon request, trainees or interns must present a fully executed Trainee/Internship Placement Plan on Form DS–7002 to any Consular Official interviewing them in connection with the issuance of J–1 visas.

G. Kevin Saba,

Director, Office of Policy and Program Support, Office of Private Sector Exchange, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2017–20048 Filed 9–19–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10132]

Designation of Brandon-Lee Thulsie, aka Sallahuddin Thulsie, aka Salahuddin ibn Hernani as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Brandon-Lee Thulsie, also known as Sallahuddin Thulsie, also known as Salahuddin ibn Hernani, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: August 28, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–20031 Filed 9–19–17; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Disposal of 57 Acres of Airport Land at Manchester-Boston Regional Airport in Manchester, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

Under the provisions of Title 49, U.S.C. Section 47153(d), notice is being given that the FAA is considering a request from the Manchester-Boston Regional Airport in Manchester, NH, to dispose of 57 acres of airport land that is not required for aviation purposes at Manchester-Boston Regional Airport.

The subject parcel has been identified as property no longer needed for aviation use by the Manchester-Boston Regional Airport. The property is comprised of two (2) adjacent parcels of land, one located off of Pettengill Road in the Town of Londonderry, Rockingham County, New Hampshire and shown on the Town of Londonderry Tax Map as Map14/Lot 49–1, and the other located on Brown Avenue in the City of Manchester, Hillsborough County, New Hampshire shown on the City of Manchester Tax Map as Map 712, Lot 1B. The property was originally purchased as wetland mitigation land for the extension of Runway 35 in 2001. The property is located on the southwesterly side of the airport; it is a significant distance from the airfield environs.

Shortly after the land was acquired, it was determined by both the state and federal agencies having jurisdiction that the wetland mitigation requirements imposed upon the Airport with respect to the Trolley Crossing property were no longer required, and that the Property should be preserved as a wildlife corridor. Given the use of the property at this time, the airport determined that it was appropriate to identify New Hampshire Fish and Game, an environmentally oriented state agency, to continue to maintain the property in its natural state as a wildlife corridor in perpetuity.

The land will be transferred as a public benefit to the New Hampshire Fish and Game. A perpetual restrictive covenant is to be placed on the land that

includes avigation easements and reversion clauses to ensure that aviation is not impacted by the property in the future. The restrictive covenant will be incorporated at the time of the land transfer.

DATES: Comments must be received on or before October 20, 2017.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Interested persons may inspect the request and supporting documents by contacting the

FAA at the address listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts, 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts, on September 6, 2017.

Richard Doucette,

Acting Manager, ANE–600.

[FR Doc. 2017–19954 Filed 9–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on a Land Use Change From Aeronautical to Non-Aeronautical Use for 18.6 Acres of Airport Land for Solar Farm Use at North Central Airport, Smithfield, RI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: Notice is being given that the FAA is considering a request from the Rhode Island Airport Corporation (RIAC), to change the current land use from aeronautical use to non-aeronautical use of two parcels of land comprising a total of 18.6 acres of land. The northeasterly parcel is approximately 10.2 acres and the northwesterly parcel is approximately 8.4 acres. The Airport Layout Plan was updated with a Pen and Ink change to designate the parcel for non-aeronautical use. The annual savings in electrical costs created by the solar farm will offset the fair market value of the land lease over the lease period.

DATES: Comments must be received on or before October 20, 2017.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts, on September 6, 2017.

Richard Doucette,

Acting Manager, ANE–600.

[FR Doc. 2017–19953 Filed 9–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2017–0037; Notice No. 2017–06]

International Standards on the Transport of Dangerous Goods

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: On Tuesday, November 14, 2017, PHMSA will host two public meetings. The first meeting will be led by PHMSA to gain public input on current proposals and discuss potential new work items for inclusion in the agenda of the 52nd session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE TDG) held in Geneva, Switzerland from November 27 to December 6, 2017. The second meeting will be led by the Occupational Safety and Health Administration (OSHA) to discuss proposals in preparation for the 34th session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UNSCEGHS) held in Geneva, Switzerland from December 6 to 8, 2017.

Time and Location: Both public meetings will take place on Tuesday, November 14, 2017, at DOT Headquarters, West Building, Oklahoma City Conference Room, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

PHMSA Public Meeting: 9:00 a.m. to 12:00 noon EST.

OSHA Public Meeting: 1:00 p.m. to 4:00 p.m. EST.

Advanced Meeting Registration: DOT requests that attendees pre-register for these meetings by completing the form at *https://www.surveymonkey.com/r/GHSZ2Q9.* Attendees may use the same form to pre-register for both meetings. Failure to pre-register may delay your access into the DOT Headquarters building. Additionally, if you are attending in-person, arrive early to allow time for security checks necessary to access the building.

Conference call-in and ''Skype meeting'' capability will be provided for both meetings. Specific information on such access will be posted when available at *http://www.phmsa.dot.gov/hazmat/regs/international* under Upcoming Events.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Webb or Mr. Aaron Wiener, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590, (202) 366–8553.

SUPPLEMENTARY INFORMATION:

PHMSA Public Meeting

The primary purpose of PHMSA's meeting is to prepare for the 52nd session of the UNSCOE TDG. This session represents the second meeting scheduled for the 2017–2018 biennium. UNSCOE will consider proposals for the 21st Revised Edition of the *United Nations Recommendations on the Transport of Dangerous Goods Model Regulations* (Model Regulations), which may be implemented into relevant domestic, regional, and international regulations from January 1, 2021. Copies of working documents, informal

documents, and the meeting agenda may be obtained from the United Nations (UN) Transport Division's Web site at *http://www.unece.org/trans/main/dgdb/dgsubc3/c32017.html.*

General topics on the agenda for the UNSCOE TDG meeting include:

- Explosives and related matters;
- Listing, classification, and packing;
- Electric storage systems;
- Transport of gases;
- Global harmonization of the Transport of Dangerous Goods Regulations with the Model Regulations;
- Guiding principles for the Model Regulations;
- Cooperation with the International Atomic Energy Agency;
- New proposals for amendments to the Model Regulations;
- Issues relating to the Globally Harmonized System of Classification and Labelling of Chemicals (GHS); and
- Miscellaneous pending issues.

Following the 52nd session of the UNSCOE TDG, a copy of the Sub-Committee's report will be available at the UN Transport Division's Web site at *http://www.unece.org/trans/main/dgdb/dgsubc3/c3rep.html.* PHMSA's Web site at *http://www.phmsa.dot.gov/hazmat/regs/international* provides additional information regarding the UNSCOE TDG and related matters.

OSHA Public Meeting

The **Federal Register** notice and additional detailed information relating to OSHA's public meeting will be available upon publication at *www.regulations.gov* (Docket No. OSHA–2016–0005). OSHA is hosting the meeting to prepare for the 34th session of the UNSCEGHS, to provide interested groups and individuals with an update on GHS related issues, and to solicit input on the development of U.S. Government positions on proposals submitted to the UNSCEGHS.

Signed at Washington, DC, on September 15, 2017.

William S. Schoonover,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2017–20044 Filed 9–19–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated National and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's Web site (*www.treas.gov/ofac*).

Notice of OFAC Actions

On September 14, 2017, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. AHMADZADEGAN, Sadegh (a.k.a. ''el_nitr0jen''; a.k.a. ''Nitr0jen''; a.k.a. ''Nitr0jen26''); DOB 27 Oct 1992; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions (individual) [CYBER2].

Designated pursuant to section 1(a)(ii)(C) of Executive Order 13694 of April 1, 2015, ''Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities,'' (''E.O. 13694'') for causing a significant disruption to the availability of a computer or network of computers.

2. FATHI, Ahmad (a.k.a. ''M3HRAN''; a.k.a. ''M3S3C3''; a.k.a. ''MOHAMMADI, Farhad''), No. 12, Saremi Street, Nejatollahi Street, Tehran, Iran; Gharani St., Besharat St., Saremi Alley, No. 12, Tehran, Tehran, Iran; DOB 11 Sep 1978; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Identification Number 5725729366035 (Iran) (individual) [CYBER2] (Linked To: ITSEC TEAM).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13694 for having acted or purported to act for or on behalf of, directly or indirectly, ITSec Team, a person whose property and interests in property are blocked pursuant to E.O. 13694.

3. FIROOZI, Hamid (a.k.a. ''H4mid@ Tm3l''); DOB 06 Aug 1981; alt. DOB 23 Jun 1981; alt. DOB 01 Jan 1980; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions (individual) [CYBER2] (Linked To: ITSEC TEAM).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13694 for having acted or purported to act for or on behalf of, directly or indirectly, ITSec Team, a person whose property and interests in property are blocked pursuant to E.O. 13694.

4. GHAFFARINIA, Omid; DOB 24 Jun 1990; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions (individual) [CYBER2].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13694 for causing a significant disruption to the availability of a computer or network of computers.

5. KEISSAR, Sina (a.k.a. ''sina_molove''); DOB 20 May 1990; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions (individual) [CYBER2].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13694 for causing a significant disruption to the availability of a computer or network of computers.

6. SAEDI, Nader (a.k.a. ''tahersaedi''; a.k.a. ''turk_server''; a.k.a. ''turkserver''); DOB 22 Feb 1990; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions (individual) [CYBER2].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13694 for causing a significant disruption to the availability of a computer or network of computers.

7. SHOKOHI, Amin (a.k.a. ''Pejvak''); DOB 11 Jul 1990; alt. DOB 11 Jul 1989; alt. DOB 05 Aug 1981; POB Karaj, Iran; Additional Sanctions Information—Subject to Secondary Sanctions (individual) [CYBER2] (Linked To: ITSEC TEAM).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13694 for having acted or purported to act for or on behalf of, directly or indirectly, ITSec Team, a person whose property and interests in property are blocked pursuant to E.O. 13694.

Entities

1. DART AIRLINES (a.k.a. DART AIRCOMPANY; a.k.a. DART

UKRAINIAN AIRLINES; a.k.a. TOVARYSTVO Z OBMEZHENOYU VIDPOVIDALNISTYU 'DART'; a.k.a. ''DART, LLC''; a.k.a. ''DART, TOV''), 26a, Narodnogo Opolchenyia Street, Kiev 03151, Ukraine; Kv. 107, Bud. 15/2 Vul.Shuliavska, Kyiv 01054, Ukraine; Ave. Vozdukhoflostsky 90, Kiev 03036, Ukraine; Additional Sanctions Information—Subject to Secondary Sanctions; Tax ID No. 252030326052 (Ukraine); Government Gazette Number 25203037 (Ukraine) [SDGT] [IFSR].

Designated pursuant to section 1(d)(i) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' (''E.O. 13224'') for providing material support and services to CASPIAN AIR, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. ITSEC TEAM (a.k.a. AMN PARDAZESH KHARAZMI; a.k.a. ''IT SECURITY & PENETRATION TESTING TEAM''; a.k.a. ''POOYA DIGITAL SECURITY GROUP''), Unit 2, No. 129, Mir Ali Akbari St, Motahari Avenue, Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [CYBER2].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13694 for causing a significant disruption to the availability of a computer or network of computers.

3. KHORS AIRCOMPANY (a.k.a. AVIAKOMPANIYA KHORS, TOV; a.k.a. KHORS AIR; a.k.a. TOVARYSTVO Z OBMEZHENOYU VIDPOVIDALNISTYU 'AVIAKOMPANIYA 'KHORS'; a.k.a. ''HORS AIRLINES LTD.''), 60 Volunska Street, Kiev 03151, Ukraine; Bud. 34 Bul.Lesi Ukrainky, Kyiv 01133, Ukraine; Lesi Ukraini Bulvar 34, Kiev 252133, Ukraine; Additional Sanctions Information—Subject to Secondary Sanctions; Government Gazette Number 04937956 (Ukraine) [SDGT] [IFSR].

Designated pursuant to section 1(d)(i) of E.O. 13224 for providing material support and services to CASPIAN AIR and AL-NASER AIRLINES, two persons whose property and interests in property are blocked pursuant to E.O. 13224.

4. SADID CARAN SABA ENGINEERING COMPANY (a.k.a. SADID CARAN SABA COMPANY; a.k.a. SADID CARAN SABA ENG. CO.; a.k.a. ''S.C. SABA ENG CO.''; a.k.a. ''SABA CRANE''), Unit 501, No. 17, Beside Samen Drugstore, Hakim West Highway, Tehran, Iran; No. 1401, Cross 5th Golazin and 2nd Golara, Eshtehard Industrial Zone, Eshtehard, Alborz, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].

Designated pursuant to section 1(a)(iii) of Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters'' (''E.O. 13382'') for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, Iran's ISLAMIC REVOLUTIONARY GUARD CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Dated: September 14, 2017.

John. E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2017–19971 Filed 9–19–17; 8:45 am]

BILLING CODE 4810–AL–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Meetings; Correction

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public meetings; correction.

SUMMARY: The U.S.-China Economic and Security Review Commission published a document in the **Federal Register** of August 25, 2017, concerning notice of open public meetings to review and edit drafts of the Commission's 2017 Annual Report to Congress. The document contained incorrect dates for the October meetings and the topics to be discussed at the October meetings has also changed.

FOR FURTHER INFORMATION CONTACT: Christopher Fioravante, 444 North Capitol Street NW., Suite 602, Washington, DC 20001; telephone: 202–624–1455, or via email at *cfioravante@uscc.gov.*

Correction

In the **Federal Register** of August 25, 2017, in FR Doc. 2017–18018, on page 40647, in the third column, correct the **DATES** caption to remove ''Thursday, October 4, 2017, from 9:00 a.m. to 5:00 p.m.; and Friday, October 5, 2017, from 9:00 a.m. to 5:00 p.m.'' and add ''Wednesday, October 4, 2017, from 9:00 a.m. to 5:00 p.m.; and Thursday, October 5, 2017, from 9:00 a.m. to 5:00 p.m.''

In the **Federal Register** of August 25, 2017, in FR Doc. 2017–18018, on page 40647, in the third column, correct the **SUPPLEMENTARY INFORMATION** caption to remove ''U.S.-China Security Relations, including: Year in Review: Security and Foreign Affairs; and Hotspots along China's Maritime Periphery'' and add ''U.S.-China Security Relations, including: Year in Review: Security and Foreign Affairs; China's Military Modernization in 2017; and Hotspots along China's Maritime Periphery.''

Dated: September 14, 2017.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2017–19946 Filed 9–19–17; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0159]

Agency Information Collection Activity: Matured Endowment Notification

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administrations, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 20, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administrations (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0159'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct

or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Matured Endowment Notification—VA Form 29–5767.

OMB Control Number: 2900–0159.

Type of Review: Reinstatement of a previously approved collection.

Abstract: This form is used to notify the insured that his/her endowment policy has matured, and to elicit their desired disposition of the proceeds of the policy. The information of the form is required by law, 38 U.S.C. 1917 and 1952, and 38 CFR 6.69 and 8.92.

Affected Public: Individuals and households.

Estimated Annual Burden: 2,867 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 8,600.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–19990 Filed 9–19–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0771]

Agency Information Collection Activity: Insurance Customer Satisfaction Surveys

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administrations, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 20, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administrations (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0771'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Pub. L. 104–13; 44 U.S.C. 3501–3521.

Title: Insurance Customer Satisfaction Surveys.

OMB Control Number: 2900–0771.

Type of Review: Reinstatement of a previously approved collection.

Abstract: These surveys are used to solicit information that is needed to determine our customers level of satisfaction with existing services. The 10 surveys are: Beneficiary Survey, Cash Surrender Survey, Correspondence Survey, Insurance Claims Survey, Policy Loan Survey, Service-Disabled Veterans Insurance (SDVI) Survey, Waiver Survey, Veterans Mortgage Life Insurance (VMLI) Survey, Telephone Insurance Claims Survey, and Telephone Policy Survey.

Affected Public: Individuals and households.

Estimated Annual Burden: 444 hours.

Estimated Average Burden per Respondent: 6 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 4,440.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–19994 Filed 9–19–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0001]

Agency Information Collection Activity Under OMB Review: Veteran's Supplemental Claim Application

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 20, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0001'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0001'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Veteran's Supplemental claim Application (VA Form 21–526b).

OMB Control Number: 2900–0001.

Type of Review: Reinstatement of a currently approved collection.

Abstract: VA Form 21–526b is used to gather the necessary information to determine a veteran's eligibility to apply for a supplemental claim or ancillary benefit.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 119 on June 22, 2017, pages 28546 and 28547.

Affected Public: Individuals or Households.

Estimated Annual Burden: 54,295 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 217,178.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–19987 Filed 9–19–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0031]

Agency Information Collection Activity: Veteran/Servicemembers Supplemental Application for Assistance in Acquiring Specially Adapted Housing

AGENCY: Loan Guaranty Service, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Loan Guaranty Service, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 20, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0031'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Pub. L. 104–13; 44 U.S.C. 3501–3521.

Title: Veteran/Servicemembers Supplemental Application for Assistance in Acquiring Specially Adapted Housing.

OMB Control Number: 2900–0031.

Type of Review: Revision of a currently approved collection.

Abstract: Title 38, U.S.C., chapter 21, authorizes a VA program of grants for specially adapted housing for disabled veterans or servicemembers. Section 2101(a) of this chapter specifically outlines those determinations that must be made by VA before such grant is approved for a particular veteran or servicemember. VA Form 26–4555c is used to collect information that is necessary for VA to meet the requirements of 38 U.S.C. 2101(a). (Also, see 38 CFR 36.4402(a), 36–4404(a), and 36.4405.)

Affected Public: Individuals and households.

Estimated Annual Burden: 350 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,400.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–19988 Filed 9–19–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0623]

Agency Information Collection Activity: Department Of Veteran Affairs Acquisition Regulation (VAAR) Clause 852.236–91

AGENCY: The Office of Management (OM), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 20, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Ricky Clark, Office Of Acquisition and Logistics (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Ricky.Clark@va.gov.* Please refer to

''OMB Control No. ''2900–0623'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM functions, including whether the information will have practical utility; (2) the accuracy of OM estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521).

Title: Department of Veteran Affairs Acquisition Regulation (VAAR) Clause 852.236–91.

OMB Control Number: 2900–0623.

Type of Review: Extension of a currently approved collection.

Abstract: VAAR Clause 852.236–91 requires VA to determine whether or not to award a contract to a firm that might involve or result in a conflict of interest. VA uses the information to determine whether additional contract terms and conditions are necessary to mitigate the conflict. 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.

Affected Public: Business or other for-profit and not-for-profit institutions.

Estimated Annual Burden:

a. VAAR clause 852.236–91—778 Hours.

Estimated Average Burden per Respondent:

a. VAAR clause 852.236–91 for Qualified Data—.5 hour.

b. VAAR clause 852.236–91 for Weather Data—1 hour.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VAAR clause 852.236–91 for Qualified Data—1516.

b. VAAR clause 852.236–91 for Weather Data—20.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–19992 Filed 9–19–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0590]

Agency Information Collection Activity: Department of Veteran Affairs Acquisition Regulation (VAAR) Clauses 852.237–7, Indemnification and Medical Liability Insurance; 852.228–71, Indemnification and Medical Liability Insurance; and 852.207–70, Report of Employment Under Commercial Activities

AGENCY: The Office of Management (OM), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 20, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Ricky Clark, Office Of Acquisition and Logistics (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Ricky.Clark@va.gov.* Please refer to ''OMB Control No. ''2900–0590'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OMB invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM functions, including whether the information will have practical utility; (2) the accuracy of OM estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521).

Title: Department of Veteran Affairs Acquisition Regulation (VAAR) Clauses 852.237–7, Indemnification and Medical Liability Insurance; 852.228–71, Indemnification and Medical Liability Insurance; and 852.207–70, Report of Employment Under Commercial Activities.

OMB Control Number: 2900–0590.

Type of Review: Extension of a currently approved collection.

Abstract: VAAR clause 852.237–7, Indemnification and Medical Liability Insurance, is used in lieu of Federal Acquisition Regulation (FAR) clause 52.237–7, Indemnification and Medical Liability Insurance, in solicitations and contracts for the acquisition of non-personal health care services. It requires the apparent successful bidder/offeror, upon the request of the contracting officer, prior to contract award, to furnish evidence of insurability of the offeror and/or all health-care providers who will perform under the contract. In addition, the clause requires the contractor, prior to commencement of services under the contract, to provide Certificates of Insurance or insurance policies evidencing that the firm possesses the types and amounts of insurance required by the solicitation. The information is required in order to protect VA by ensuring that the firm to which award may be made and the individuals who may provide health care services under the contract are insurable and that, following award, the contractor and its employees will continue to possess the types and amounts of insurance required by the solicitation. It helps ensure that VA will not be held liable for any negligent acts of the contractor or its employees and

ensures that VA and VA beneficiaries will be protected by adequate insurance coverage.

VAAR clause 852.228–71, Indemnification and Insurance, is used in solicitations for vehicle or aircraft services. It requires the apparent successful bidder/offeror, prior to contract award, to furnish evidence that the firm possesses the types and amounts of insurance required by the solicitation. This evidence is in the form of a certificate from the firm's insurance company. The information is required to protect VA by ensuring that the firm to which award will be made possesses the types and amounts of insurance required by the solicitation. It helps ensure that VA will not be held liable for any negligent acts of the contractor and ensures that VA beneficiaries and the public are protected by adequate insurance coverage.

VAAR clause 852.207–70, Report of Employment Under Commercial Activities, is used in solicitations for commercial items and services where the work is currently being performed by VA employees and where those employees might be displaced as a result of an award to a commercial firm. The clause requires contractors awarded such contracts to provide, within 5 days of contract award, a list of employment openings, including salaries and benefits, and blank job application forms. The clause also requires the contractor, prior to the contract start date, to report: The names of adversely affected Federal employees offered employment openings; the date the offer was made; a description of the position; the date of acceptance and the effective date of employment; the date of rejection if an employee rejected an offer; the salary and benefits contained in any rejected offer; and the names of employees who applied for but were not offered employment and the reasons for withholding offers to those employees. In addition, the clause requires the contractor, during the first 90 days of contract performance, to report the names of all persons hired or terminated under the contract. The information will be used by the contracting officer to monitor and ensure compliance by the contractor with the requirements of FAR clause 52.207–3, Right of First Refusal of Employment.

VA uses the information to determine whether additional contract terms and conditions are necessary to mitigate the conflict. 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.

Affected Public: Business or other for-profit and not-for-profit institutions.

Estimated Annual Burden:

a. VAAR Clause 852.237–7, Indemnification and Medical Liability Insurance—750 hours.

b. VAAR clause 852.228–71, Indemnification and Insurance—250 hours.

c. VAAR clause 852.207–70, Report of Employment Under Commercial Activities—15 hours.

Estimated Average Burden per Respondent:

a. VAAR Clause 852.237–7, Indemnification and Medical Liability Insurance—30 minutes.

b. VAAR clause 852.228–71, Indemnification and Insurance—30 minutes.

c. VAAR clause 852.207–70, Report of Employment Under Commercial Activities—30 minutes per report.

Frequency of Response: On occasion.

a. VAAR Clause 852.237–7, Indemnification and Medical Liability Insurance—1 per each contract awarded.

b. VAAR clause 852.228–71, Indemnification and Insurance—1 per each contract awarded.

c. VAAR clause 852.207–70, Report of Employment Under Commercial Activities—3 reports per contract awarded.

Estimated Number of Respondents:

a. VAAR Clause 852.237–7, Indemnification and Medical Liability Insurance—1500.

b. VAAR clause 852.228–71, Indemnification and Insurance—500.

c. VAAR clause 852.207–70, Report of Employment Under Commercial Activities—10.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–19991 Filed 9–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Special Medical Advisory Group will meet on October 18, 2017, at the Department of Veterans Affairs, VA Central Office, 810 Vermont Ave, Washington, DC 20420, Conference Room 230 from 8:00 a.m. to 4:00 p.m. ET. The meeting is open to the public.

The purpose of the Group is to advise the Secretary of Veterans Affairs and the Under Secretary for Health on the care and treatment of Veterans, and other matters pertinent to the Veterans Health Administration (VHA).

The agenda for the meeting will include a review of the CARE Plan, Health Improvement Center, and a review of the Manchester investigation.

Thirty (30) minutes will be allocated at the end of the meeting for receiving oral presentations from the public. Members of the public may submit written statements for review by the Committee to Jeff Harp at the Department of Veterans Affairs, Office of Under Secretary for Health (10), Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420, phone 202–461–7016 or by email at *VASMAGDFO@va.gov.*

Any member of the public wishing to attend the meeting or seeking additional information should email *VASMAGDFO@va.gov.* All persons attending the meeting will go through security screening, please bring photo I.D. Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process. Due to security protocols and to prevent delays in clearance processing, you should allow an additional 30 minutes before the meeting begins.

Dated: September 14, 2017.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–19973 Filed 9–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Genomic Medicine Program Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Genomic Medicine Program Advisory Committee will meet on November 2, 2017 at the Hilton Garden Inn, 1225 First Street NE., Washington, District of Columbia, 20002. The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. The meeting is open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on using genetic information to optimize medical care for Veterans and to enhance development of tests and treatments for diseases particularly relevant to Veterans.

The Committee will receive program updates and continue to provide insight into optimal ways for VA to incorporate genomic information into its health care program while applying appropriate ethical oversight and protecting the privacy of Veterans. The meeting focus will be on the status of ongoing interagency collaborations, updates on scientific research using the Million Veteran Program cohort, and clinical implications of genetics in better identification and treatment of diseases impacting Veterans. The Committee will also receive an update from the Clinical Genomics Service. Public comments will be received at 3:15 p.m. and are limited to 5 minutes each. Individuals who speak are invited to submit a 1–2 page summary of their comments for inclusion in the official meeting record to Dr. Sumitra Muralidhar, Designated Federal Officer, 810 Vermont Avenue NW., Washington, DC 20420, or by email at *sumitra.muralidhar@va.gov.* Any member of the public seeking additional information should contact Dr. Muralidhar at (202) 443–5679.

Dated: September 14, 2017.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–19949 Filed 9–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0115]

Agency Information Collection Activity: Supporting Statement Regarding Marriage

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 20, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy Kessinger, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0115'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 103.

Title: Supporting Statement Regarding Marriage, VA Form 21P–4171.

OMB Control Number: 2900–0115.

Type of Review: Reinstatement without change of a currently approved collection.

Abstract: VBA utilizes VA Form 21P–4171 to collect information from third-parties regarding claimed common-law marriage between Veterans and spouses/surviving spouses. VBA uses the information collected to determine whether or not the claimed common-law marriage is valid under the law of the place where the parties resided at the time of marriage, or the law of the place where the parties resided when the right to benefits accrued, to comply with 38 CFR 3.1(j) and pay monetary benefits.

Affected Public: Individuals and households.

Estimated Annual Burden: 800 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 2,400.

By direction of the Secretary:

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–19989 Filed 9–19–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0715]

Agency Information Collection Activity: Servicer's Staff Appraisal Reviewer (SAR) Application

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 20, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0715'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: VA Form 26–0829, Servicer's Staff Appraisal Reviewer (SAR) Application.

OMB Control Number: 2900–0715.

Type of Review: Extension of a currently approved collection.

Abstract: The major use of the form is to collect data necessary for Department of Veterans Affairs (VA) compliance with the requirements of 38 U.S.C. 3702(d) and 38 CFR 36.4344. Title 38 U.S.C. 3702(d) authorizes VA to establish standards for servicers liquidating automatically guaranteed loans and 38 CFR 36.4344 establishes requirements and procedures for lenders/servicers in being approved to perform the functions under the Servicer Appraisal Processing Program (SAPP).

Affected Public: Individuals (employees of lenders making applications).

Estimated Annual Burden: 2 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20 per year.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–19993 Filed 9–19–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 82 Wednesday,
No. 181 September 20, 2017

Part II

National Capital Planning Commission

1 CFR Parts 455, 456, et al.
Freedom of Information Act Regulations; Privacy Act Regulation; Final Rules

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 456 and Chapter VI

Freedom of Information Act Regulations

AGENCY: National Capital Planning Commission.

ACTION: Final rule.

SUMMARY: The National Capital Planning Commission (NCPC or Commission) hereby adopts new Freedom of Information Act (FOIA) Regulations. NCPC must comply with the requirements of FOIA when it process requests for Information submitted pursuant to FOIA.

DATES: This rule is effective October 20, 2017.

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel and Chief FOIA Officer, 202–482–7223, *anne.schuyler@ncpc.gov.*

SUPPLEMENTARY INFORMATION: On June 30, 2016, President Obama signed into law the FOIA Improvement Act of 2016 (Pub. L. 114–185). The FOIA Improvement Act of 2016 addresses a range of procedural issues, including, among others, the requirement that agencies establish a minimum of 90 days for requesters to file an administrative appeal; provide dispute resolution services at various times throughout the FOIA process; refrain from charging fees for failure to comply with mandated time limits; engage in proactive disclosure of records of general interest or use to the public that are appropriate for such disclosure; and apply the Department of Justice's ''foreseeable harm'' standard as the basis for withholding information pursuant to an exemption contained in FOIA.

NCPC adopted updated FOIA regulations in February 2014. As a result, NCPC included many of the Department of Justice, Office of Information Policy (OIP) policies into its existing regulations some of which are now incorporated as law into the FOIA Improvement Act of 2016. This means the new FOIA Regulations (FOIA Regulations) required only a few changes to comply with the requirements of the FOIA Improvement Act of 2016.

NCPC published its existing FOIA regulations under Title 1, Chapter IV, part 456 of the Code of Federal Regulations (CFR). Historically, Title 1, Chapter IV (Miscellaneous Agencies), Parts 455, 456, and 457 of the CFR contained NCPC regulations (Privacy, FOIA, and Nondiscrimination respectively). However, as there were no additional parts within Chapter IV to accommodate NCPC's recently adopted National Environmental Policy Act (NEPA) Regulations, the Office of the Federal Register assigned NCPC a new Chapter—Chapter VI—within Title 1 for consolidation of all current and future NCPC regulations. As NCPC revises its existing regulations and prepares new ones, each revised and new regulation will be published in the next sequential Part of Chapter VI. The next sequential Part available for NCPC's revised FOIA regulations is Part 602. Thus, the revised FOIA regulations are advertised as Part 602.

I. Key Changes Incorporated Into NCPC's Freedom of Information Act Regulations

A. Time Limits

The FOIA Improvement Act of 2016 requires agencies to establish a minimum of 90 days for requesters to file an administrative appeal. NCPC's FOIA regulations incorporate this requirement in § 602.12(a) (Appeals of Adverse Determinations). Section 602.12(g) enumerates the ability to extend time limits for responding to a FOIA request (20 days) and the process to be followed by NCPC to extend the time limits.

B. Assistance From NCPC's FOIA Public Liaison and the National Archives Record Administration's (NARA), Office of Government Information (OGIS)

The FOIA Improvement Act of 2016 requires agencies to advise Requesters of the availability of dispute resolution services at various times throughout the FOIA process. The Act provides for these services to be offered by an agency's FOIA Public Liaison and OGIS. NCPC's FOIA Regulations reference these services in §§ 602.5 (FOIA Request requirements), 602.6 (FOIA Response requirements), and 602.12 (Appeals of Adverse Determinations).

C. Changes to Fee Structure

The FOIA Improvement Act of 2016 precludes the collection of fees if an agency fails to meet mandated FOIA time limits. NCPC's FOIA regulations contain this limitation in § 602.13(f)(1). Section 602.13(f)(2) introduces a new fee construct contained in the FOIA Improvements Act of 2016 for Requests that generate 5000 pages of responsive records.

As a general matter, the FOIA Regulations contain a reorganized fee section. The current regulations organize the fee section based on types of fees, *e.g.,* Search, Review and Duplication. The new FOIA Regulations organize the fee section based on three categories of Requesters, *e.g.,* Commercial Use Requesters; Noncommercial Scientific Institutions, Educational Institutions, and News Media Requesters; and all other Requesters. NCPC adopted this new organizational structure to improve the clarity of the fee section. Other than the reorganized structure and the two additions necessitated by the FOIA Improvements Act of 2016, the content of the fee section in the FOIA Regulations remains unchanged from that of the existing regulations.

D. Standard for Release of Records

The FOIA Improvement Act of 2016 requires agencies to proactively disclose in electronic format records that have been requested three or more times. It also requires application of the Department of Justice's ''foreseeable harm'' standard as the basis for withholding information pursuant to an exemption contained in FOIA. The concept of proactive disclosure is already contained in NCPC's current regulations and is carried over in NCPC's FOIA Regulations at §§ 602.2(b) (Policy) and 602.4(b)(10) (Information Available without a FOIA Request). The foreseeable harm standard is incorporated in § 602.6(c).

E. Elimination of a Description of NCPC's Organizational Structure

NCPC's existing regulations contain an entire section devoted to a description of the Agency's organizational structure and the Commission's composition (See, 1 CFR 456.2). As this information is now readily available on NCPC's Web site, the referenced section has been removed from the FOIA Regulations. As a consequence, the remaining sections of the FOIA Regulations have been renumbered. Moreover, the Policy section has been moved. It now follows the Purpose section (renamed from General Information) and proceeds the Definition section. This appeared to be a move logical organizational structure.

II. Summary of and Response to Comments

NCPC published a proposed rule addressing revisions to its current FOIA Regulations in the **Federal Register** on August 1, 2017 for a 30-day public comment period. The public comment period closed on August 31, 2017.

NCPC received no comments on its proposed FOIA Regulations. Consequently, the proposed FOIA Regulations are now being advertised as the final FOIA Regulations.

III. Compliance With Laws and Executive Orders

Executive Orders 12866 and 13563

By Memorandum dated October 12, 1993 from Sally Katzen, Administrator, Office of Information and Regulatory Affairs (OIRA) to Heads of Executive Departments and Agencies, and Independent Agencies, OMB rendered the NCPC exempt from the requirements of Executive Order 12866 (See, Appendix A of cited Memorandum). Nonetheless, NCPC endeavors to adhere to the provisions of Executive Orders and developed this rule in a manner consistent with the requirements of Executive Order 13563.

Executive Order 13771

By virtue of its exemption from the requirements of EO 12866, NCPC is exemption from this Executive Order. NCPC confirmed this fact with OIRA.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the NCPC certifies that the rule will not have a significant economic effect on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It does not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs for individuals, various levels of governments or various regions; and does not have a significant adverse effect on completion, employment, investment, productivity, innovation or the competitiveness of US enterprises with foreign enterprises.

Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.)

A statement regarding the Unfunded Mandates Reform Act is not required. The rule neither imposes an unfunded mandate of more than $100 million per year nor imposes a significant or unique effect on State, local or tribal governments or the private sector.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The rule does not substantially and directly affect the relationship between the Federal and state governments.

Civil Justice Reform (Executive Order 12988)

The General Counsel of NCPC has determined that the rule does not unduly burden the judicial system and meets the requirements of Executive Order 12988 3(a) and 3(b)(2).

Paperwork Reduction Act

The rule does not contain information collection requirements, and it does not require a submission to the Office of Management and Budget under the Paperwork Reduction Act.

National Environmental Policy Act

The rule is of an administrative nature, and its adoption does not constitute a major federal action significantly affecting the quality of the human environment. NCPC's adoption of the rule will have minimal or no effect on the environment; impose no significant change to existing environmental conditions; and will have no cumulative environmental impacts.

Clarity of the Regulation

Executive Order 12866, Executive Order 12988, and the Presidential Memorandum of June 1, 1998 requires the NCPC to write all rules in plain language. NCPC maintains the rule meets this requirement. Those individuals reviewing the rule who believe otherwise should submit specific comments to the addresses noted above recommending revised language for those provisions or portions thereof where they believe compliance is lacking.

Public Availability of Comments

Be advised that personal information such as name, address, phone number, electronic address, or other identifying personal information contained in a comment may be made publically available. Individuals may ask NCPC to withhold the personal information in their comment, but there is no guarantee the agency can do so.

List of Subjects in 1 CFR Parts 456 and 602

Freedom of information.

For the reasons stated in the preamble, the National Capital Planning Commission amends 1 CFR Chapter IV and establishes 1 CFR Chapter VI to read as follows:

CHAPTER IV—MISCELLANEOUS AGENCIES

PART 456 [Removed]

■ 1. Under the authority of 40 U.S.C. 8711(a) remove part 456.

■ 2. Establish Chapter VI, consisting of part 602, to read as follows:

CHAPTER VI—NATIONAL CAPITAL PLANNING COMMISSION

PART 602—NATIONAL CAPITAL PLANNING COMMISSION FREEDOM OF INFORMATION ACT REGULATIONS

Sec.

602.1 Purpose.
602.2 Policy.
602.3 Definitions.
602.4 Information available without a FOIA Request.
602.5 FOIA Request requirements.
602.6 FOIA response requirements.
602.7 Multi-track processing.
602.8 Expedited processing.
602.9 Consultations and referrals.
602.10 Classified and Controlled Unclassified Information.
602.11 Confidential Commercial Information.
602.12 Appeals of Adverse Determinations.
602.13 Fees.
602.14 Fee waiver requirements.
602.15 Preservation of FOIA records.

Authority: 5 U.S.C. 552, as amended.

§ 602.1 Purpose.

This part contains the rules the National Capital Planning Commission (NCPC or Commission) shall follow in processing third party Requests for Records concerning the activities of the NCPC under the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended. Requests made by a U.S. citizen or an individual lawfully admitted for permanent residence to access his or her own records under the Privacy Act, 5 U.S.C. 522a are processed under this part and in accordance with part 603 of Title 1 of the Code of Federal Regulations (CFR) to provide the greatest degree of access while safeguarding an individual's personal privacy. Information routinely provided to the public as part of regular NCPC activity shall be provided to the public without regard to this part.

§ 602.2 Policy.

(a) It is the NCPC's policy to facilitate the broadest possible availability and dissemination of information to the public through use of the NCPC's Web site, *www.ncpc.gov,* and physical distribution of materials not available electronically. The NCPC staff shall be available to assist the public in obtaining information formally by using the procedures herein or informally in a manner not inconsistent with the rule set forth in this part.

(b) To the maximum extent possible, the NCPC shall make available agency Records of interest to the public that are appropriate for disclosure.

§ 602.3 Definitions.

For purposes of this part, the following definitions shall apply:

Act and FOIA mean the Freedom of Information Act, 5 U.S.C. 552, as amended.

Adverse Determination or Determination shall include a determination to withhold, in whole or in part, Records requested in a FOIA Request; the failure to respond to all aspects of a Request; the determination to deny a request for a Fee Waiver; or the determination to deny a request for expedited processing. The term shall also encompass a challenge to NCPC's determination that Records have not been described adequately, that there are no responsive Records, or that an adequate Search has been conducted.

Agency Record or Record means any documentary material which is either created or obtained by a federal agency (Agency) in the transaction of Agency business and under Agency control. Agency Records may include without limitation books; papers; maps; charts; plats; plans; architectural drawings; photographs and microfilm; machine readable materials such as magnetic tape, computer disks and electronic data storage devices; electronic records including email messages; and audiovisual material such as still pictures, sound, and video recordings. This definition generally does not cover records of Agency staff that are created and maintained primarily for a staff member's convenience, exempt from Agency creation or retention requirements, and withheld from distribution to other Agency employees for their official use.

Confidential Commercial Information means commercial or financial information obtained by the NCPC from a Submitter that may be protected from disclosure under Exemption 4 of the FOIA. Exemption 4 of the FOIA protects trade secrets and commercial or financial information obtained from a person which information is privileged or confidential.

Controlled Unclassified Information means unclassified information that does not meet the standards for National Security Classification under Executive Order 13536, as amended, but is pertinent to the national interests of the United States or to the important interests of entities outside the federal government, and under law or policy requires protection from unauthorized disclosure, special handling safeguards, or prescribed limits on exchange or dissemination.

Commercial Use Request means a FOIA Request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the Requester or the person on whose behalf the Request is made.

Direct Costs means those expenditures that the NCPC incurs in searching for, duplicating, and reviewing documents to respond to a FOIA Request. Direct Costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of the rate to cover benefits) and the cost of operating duplicating machinery. Direct Costs do not include overhead expenses such as costs of space, and heating or lighting the facility in which the Records are stored.

Duplication means the process of making a copy of a document necessary to respond to a FOIA Request in a form that is reasonably usable by a Requester. Copies can take the form of, among others, paper copy, audio-visual materials, or machine readable documents (*i.e.,* computer disks or electronic data storage devices).

Educational Institution means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research. To be classified in this category, a Requester must show that the Request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

Expedited Processing means giving a FOIA Request priority because a Requester has shown a compelling need for the Records.

Fee Waiver means a waiver in whole or in part of fees if a Requester can demonstrate that certain statutory requirements are satisfied including that the information is in the public interest and is not requested primarily for commercial purposes.

FOIA Public Liaison means an NCPC official who is responsible for assisting in reducing delays, increasing transparency and understanding the status of Requests, and assisting in the resolution of disputes.

FOIA Request or Request means a written Request made by an entity or member of the public for an Agency Record submitted via the U.S. Postal Service mail or other delivery means to include without limitation electronic-mail (email) or facsimile.

Frequently Requested Documents means documents that have been Requested at least three times under the FOIA. It also includes documents the NCPC anticipates would likely be the subject of multiple Requests.

Multi-track Processing means placing requests in multiple tracks based on the amount of work or time (or both) needed to process the request. Simple Requests requiring relatively minimal work and/or review are placed in one processing track, more complex Requests are placed in one or more other tracks, and expedited Requests are placed in a separate track. Requests in each track are processed on a first-in/first-out basis.

Noncommercial Scientific Institution means an institution that is not operated for commerce, trade or profit, but is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. To be in this category, a Requester must show that the Request is authorized by and is made under the auspices of a qualifying institution and that the Records are not sought for commercial use but are sought to further scientific research.

Privacy Act Request means, in accordance with NCPC's Privacy Act Regulations (1 CFR part 603) a written (paper copy with an original signature) request made by an individual for information about himself/herself that is contained in a Privacy Act system of records. The Privacy Act applies only to U.S. citizens and aliens lawfully admitted for permanent residence such that only individuals satisfying these criteria may make Privacy Act Requests.

Reading Room Materials means Records, paper or electronic, that are required to be made available to the public under 5.U.S.C. 552(a)(2) as well as other Records that the NCPC, at its discretion, makes available to the public for inspection and copying without requiring the filing of a FOIA Request.

Representative of the News Media means any person or entity that gathers information of potential interest to a segment of the population, uses his/her/its editorial skills to turn raw material into a distinct work, and distributes that work to an audience. News media entities include television or radio stations broadcasting to the public at large; publishers of periodicals that qualify as disseminators of news and make their products available for purchase or subscription by the general public; and alternative media to include electronic dissemination through telecommunication (internet) services. To be in this category, a Requester must not be seeking the Requested Records for a commercial use. A *Freelance Journalist* is a Representative of the News Media who is able to demonstrate

a solid basis for expecting publication through a news organization, even though not actually employed by that news organization. A publication contract or past evidence of a specific freelance assignment from a news organization may indicate a solid basis for expecting publication.

Requester means an entity or member of the public submitting a FOIA Request.

Requester Category means one of the five categories NCPC places Requesters in for the purpose of determining whether the Requester will be charged for Search, Review and Duplication, and includes Commercial Use Requests, Educational Institutions, Noncommercial Scientific Institutions, Representatives of the News Media, and all other Requesters.

Review means the examination of Records to determine whether any portion of the located Record is eligible to be withheld. It also includes processing any Records for disclosure, *i.e.,* doing all that is necessary to excise the record and otherwise prepare the Record for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

Search means the process of looking for material, by manual or electronic means that is responsive to a FOIA Request. The term also includes page-by-page or line-by-line identification of material within documents.

Submitter means any person or entity outside the federal government from whom the NCPC directly or indirectly obtains commercial or financial information. The term includes, among others, corporations, banks, state and local governments, and agencies of foreign governments who provide information to the NCPC.

Unusual Circumstances means, for purposes of § 602.7(c), and only to the extent reasonably necessary to the proper processing of a particular Request:

(1) The need to Search for and collect the Requested Agency Records from establishments that are separate from the Commission's offices;

(2) The need to Search for, collect and appropriately examine and Review a voluminous amount of separate and distinct Agency Records which are demanded in a single Request; or

(3) The need for consultation with another Agency having a substantial interest in the determination of the FOIA Request.

Workday means a regular Federal workday. It does not include Saturdays, Sundays, and legal public holidays.

§ 602.4 Information available without a FOIA Request.

(a) The NCPC shall maintain an electronic library at *www.ncpc.gov* that makes Reading Room Materials capable of production in electronic form available for public inspection and downloading. The NCPC shall also maintain an actual public reading room containing Reading Room Materials incapable of production in electronic form at NCPC's offices. The actual reading room shall be available for use on Workdays during the hours of 9:00 a.m. to 4:00 p.m. Requests for appointments to review Reading Room Materials in the actual public reading room should be directed to the NCPC's Information Resources Specialist identified on the NCPC Web site (*www.ncpc.gov*).

(b) The following types of Records shall be available routinely without resort to formal FOIA Request procedures unless such Records fall within one of the exemptions listed at 5 U.S.C. 552(b) of the Act:

(1) Commission agendas;

(2) Plans and supporting documentation submitted by applicants to the Commission to include environmental and historic preservation reports prepared for a plan or project;

(3) Executive Director's Recommendations;

(4) Commission Memoranda of Action;

(5) Transcripts of Commission proceedings;

(6) The Comprehensive Plan for the National Capital: Federal Elements and other plans prepared by the NCPC;

(7) Federal Capital Improvements Plan for the National Capital Region following release of the President's Budget;

(8) Policies adopted by the Commission;

(9) Correspondence between the Commission and the Congress, other federal and local government agencies, and the public; and

(10) Frequently Requested Documents.

§ 602.5 FOIA Request requirements.

(a) The NCPC shall designate a Chief Freedom of Information Act Officer who shall be authorized to grant or deny any Request for a Record of the NCPC.

(b) Requests for a Record or Records that is/are not available in the actual or electronic reading rooms shall be directed to the Chief Freedom of Information Act Officer.

(c) All FOIA Requests shall be made in writing. If sent by U.S. mail, Requests should be sent to NCPC's official business address contained on the NCPC Web site. If sent via email, they should be directed to *FOIA@ncpc.gov.* To expedite internal handling of FOIA Requests, the words Freedom of Information Act Request shall appear prominently on the transmittal envelope or the subject line of a Request sent via email or facsimile.

(d) The FOIA Request shall:

(1) State that the Request is made pursuant to the FOIA;

(2) Describe the Agency Record(s) Requested in sufficient detail including, without limitation, any specific information known such as date, title or name, author, recipient, or time frame for which you are seeking Records, to enable the NCPC personnel to locate the Requested Agency Records;

(3) State, pursuant to the fee schedule set forth in § 602.14, a willingness to pay all fees associated with the FOIA Request or the maximum fee the Requester is willing to pay to obtain the Requested Records, unless the Requester is seeking a Fee Waiver or placement in a certain Requester Category;

(4) State, if desired, the preferred form or format of disclosure of Agency Records with which the NCPC shall endeavor to comply unless compliance would damage or destroy an original Agency Record or reproduction is costly and/or requires the acquisition of new equipment; and

(5) Provide a phone number, email address or mailing address at which the Requester can be reached to facilitate the handling of the Request.

(e) If a FOIA Request is unclear, overly broad, involves an extremely voluminous amount of Records or a burdensome Search, or fails to state a willingness to pay the requisite fees or the maximum fee which the Requester is willing to pay, the NCPC shall endeavor to contact the Requester to define the subject matter, identify and clarify the Records being sought, narrow the scope of the Request, and obtain assurances regarding payment of fees. The timeframe for a response set forth in § 602.6(a) shall be tolled (stopped temporarily) and the NCPC will not begin processing a Request until the NCPC obtains the information necessary to clarify the Request and/or clarifies issues pertaining to the fee.

(f) NCPC shall designate a FOIA Public Liaison to assist a Requester in making a Request or to assist a Requester in correcting a Request that does not reasonably describe the Records sought or to correct other deficiencies described in paragraph (e) of this section that necessitate follow-up with the Requester.

§ 602.6 FOIA response requirements.

(a) The Freedom of Information Act Officer, upon receipt of a FOIA Request made in compliance with these rules, shall determine whether to grant or deny the Request. The Freedom of Information Officer shall notify the Requester in writing within 20 Workdays of receipt of a perfected Request of his/her determination and the reasons therefore and of the right to appeal any Adverse Determination to the head of the NCPC.

(b) In cases involving Unusual Circumstances, the agency may extend the 20 Workday time limit by written notice to the Requester. The written notice shall set forth the reasons for the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension of more than 10 Working Days unless the agency affords the Requester an opportunity to modify his/her Request or arranges an alternative timeframe with the Requester for completion of the NCPC's processing. The agency shall also advise the Requester of his/her right to seek assistance from the FOIA Public Liaison or OGIS to resolve time limit disputes arising under this paragraph.

(c) NCPC shall deny a Request based on an exemption contained in the FOIA and withhold information from disclosure pursuant to an exemption only if NCPC reasonably foresees that disclosure would harm an interest protected by an exemption or if disclosure is prohibited by law. If a Request is denied based on an exemption, NCPC's response shall comply with the requirements of paragraph (d) below.

(d) If a Request is denied in whole or in part, the Chief FOIA Officer's written determination shall include, if technically feasible, the precise amount of information withheld, and the exemption under which it is being withheld unless revealing the exemption would harm an interested protected by the exemption. NCPC shall release any portion of a withheld Record that reasonably can be segregated from the exempt portion of the Record.

§ 602.7 Multi-track processing.

The NCPC may use multiple tracks for processing FOIA Requests based on the complexity of Requests and those for which expedited processing is Requested. Complexity shall be determined based on the amount of work and/or time needed to process a Request and/or the number of pages of responsive Records. If the NCPC utilizes Multi-track Processing, it shall advise a Requester when a Request is placed in a slower track of the limits associated with a faster track and afford the Requester the opportunity to limit the scope of its Request to qualify for faster processing.

§ 602.8 Expedited processing.

(a) The NCPC shall provide Expedited Processing of a FOIA Request if the person making the Request demonstrates that the Request involves:

(1) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(2) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(3) The loss of substantial due process rights; or

(4) A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity which affect public confidence.

(b) A Request for Expedited Processing may be made at the time of the initial FOIA Request or at a later time.

(c) A Requester seeking Expedited Processing must submit a detailed statement setting forth the basis for the Expedited Processing Request. The Requester must certify in the statement that the need for Expedited Processing is true and correct to the best of his/her knowledge. To qualify for Expedited Processing, a Requester relying upon the category in paragraph (a)(2) of this section must establish:

(1) He/She is a full time Representative of the News Media or primarily engaged in the occupation of information dissemination, though it need not be his/her sole occupation;

(2) A particular urgency to inform the public about the information sought by the FOIA Request beyond the public's right to know about the government activity generally; and

(3) The information is of the type that has value that will be lost if not disseminated quickly such as a breaking news story. Information of historical interest only or information sought for litigation or commercial activities will not qualify nor would a news media deadline unrelated to breaking news.

(d) Within 10 calendar days of receipt of a Request for expedited processing, the NCPC shall decide whether to grant or deny the Request and notify the Requester of the decision in writing. If a Request for Expedited Processing is granted, the Request shall be given priority and shall be processed in the expedited processing track as fast as practicable. If a Request for Expedited Processing is denied, any appeal of that decision shall be acted on expeditiously.

§ 602.9 Consultations and referrals.

(a) If a Requester seeks a Record in which another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA, NCPC shall either respond to the FOIA Request after consultation with the Agency best able to determine if the Requested Record(s) is/are subject to disclosure or refer the responsibility for responding to the FOIA Request to the Agency responsible for originating the Record(s). Generally, the Agency originating a Record will be presumed by the NCPC to be the Agency best qualified to render a decision regarding disclosure or exemption except for Agency Records submitted to the NCPC pursuant to its authority to review Agency plans and/or projects.

(b) Upon referral of Records to another Agency, the NCPC shall notify the Requester in writing of the referral, inform the Requester of the name of the Agency to which all or part of the responsive records have been referred, provide the Requester a description of the part of the Request referred, and advise the Requester of a point of contact within the receiving Agency.

(c) The timeframe for a response to a FOIA Request requiring consultation or referral shall be based on the date the FOIA Request was initially received by the NCPC and not any later date.

§ 602.10 Classified and Controlled Unclassified Information.

(a) For Requests for an Agency Record that has been classified or may be appropriate for classification by another Agency pursuant to an Executive Order concerning the classification of Records, the NCPC shall refer the responsibility for responding to the FOIA Request to the Agency that either classified the Record, should consider classifying the Record, or has primary interest in the Record, as appropriate.

(b) Whenever a Request is made for a Record that is designated Controlled Unclassified Information by another Agency, the NCPC shall refer the FOIA Request to the Agency that designated the Record as Controlled Unclassified Information. Decisions to disclose or withhold information designated as Controlled Unclassified Information shall be made based on the applicability of the statutory exemptions contained in the FOIA, not on a Controlled

Unclassified Information marking or designation.

§ 602.11 Confidential Commercial Information.

(a) Confidential Commercial Information obtained by the NCPC from a Submitter shall be disclosed under the FOIA only in accordance with the requirements of this section.

(b) A Submitter of Confidential Commercial Information shall use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under Exemption 4 of the FOIA. These designations will expire ten years after the date of the submission unless the Submitter requests, and provides justification for, a longer designation period.

(c) Notice shall be given to a Submitter of a FOIA Request for potential Confidential Commercial Information if:

(1) The requested information has been designated in good faith by the Submitter as Confidential Commercial Information eligible for protection from disclosure under Exemption 4 of the FOIA; or

(2) The NCPC has reason to believe the requested information is Confidential Commercial Information protected from disclosure under Exemption 4 of the FOIA.

(d) Subject to the requirements of paragraphs (c) and (g) of this section, the NCPC shall provide a Submitter with prompt written notice of a FOIA Request or administrative appeal that seeks the Submitter's Confidential Commercial Information. The notice shall give the Submitter an opportunity to object to disclosure of any specified portion of that Confidential Commercial Information pursuant to paragraph (e) of this section. The notice shall either describe the Confidential Commercial Information Requested or include copies of the Requested Records or portions thereof containing the Confidential Commercial Information. When notice to a large number of Submitters is required, NCPC may provide notification by posting or publishing the notice in a place reasonably likely to accomplish the intent of the notice requirement such as a newspaper, newsletter, the NCPC Web site, or the **Federal Register**.

(e) The NCPC shall allow a Submitter a reasonable time to respond to the notice described in paragraph (d) of this section and shall specify within the notice the time period for response. If a Submitter has any objection to disclosure, it shall submit a detailed written statement. The statement must specify all grounds for withholding any portion of the Confidential Commercial Information under any exemption of the FOIA and, in the case of Exemption 4, it must show why the Confidential Commercial Information is a trade secret or commercial or financial information that is privileged or confidential. If the Submitter fails to respond to the notice within the specified time, the NCPC shall consider this failure to respond as no objection to disclosure of the Confidential Commercial Information on the part of the Submitter, and NCPC shall proceed to release the requested information. A statement provided by the Submitter that is not received by NCPC until after the NCPC's disclosure decision has been made shall not be considered by the NCPC. Information provided by a Submitter under this paragraph may itself be subject to disclosure under the FOIA.

(f) The NCPC shall consider a Submitter's objections and specific grounds for nondisclosure in deciding whether to disclose Confidential Commercial Information. Whenever the NCPC decides to disclose Confidential Commercial Information over the objection of a Submitter, the NCPC shall give the Submitter written notice, which shall include:

(1) A statement of the reason(s) why each of the Submitter's disclosure objections was not sustained;

(2) A description of the Confidential Commercial Information to be disclosed; and

(3) A specified disclosure date, which shall be a reasonable time subsequent to the notice.

(g) The notice requirements of paragraphs (c) and (d) of this section shall not apply if:

(1) The NCPC determines that the Confidential Commercial Information is exempt under FOIA;

(2) The Confidential Commercial Information has been published lawfully or has been officially made available to the public;

(3) The Confidential Commercial Information's disclosure is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600 (Predisclosure Notification Procedures for Confidential Commercial Information); or

(4) The designation made by the Submitter under paragraph (b) of this section appears obviously frivolous in which case the NCPC shall, within a reasonable time prior to a specified disclosure date, give the Submitter written notice of any final decision to disclose the Confidential Commercial Information.

(h) Whenever a Requester files a lawsuit seeking to compel the disclosure of Confidential Commercial Information, the NCPC shall promptly notify the Submitter.

(i) Whenever the NCPC provides a Submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, the NCPC shall also notify the Requester. Whenever the NCPC notifies a Submitter of its intent to disclose Requested Information under paragraph (f) of this section, the NCPC shall also notify the Requester. Whenever a Submitter files a lawsuit seeking to prevent the disclosure of Confidential Commercial Information, the NCPC shall notify the Requester.

§ 602.12 Appeals of Adverse Determinations.

(a) An appeal of an Adverse Determination shall be made in writing to the Chairman of the Commission (Chairman). An appeal may be submitted via U.S. mail or other type of manual delivery service or via email or facsimile within 90 Workdays of the date of a notice of an Adverse Determination. To facilitate handling of an appeal, the words Freedom of Information Act Appeal shall appear prominently on the transmittal envelope or the subject line of a Request sent via electronic-mail or facsimile.

(b) An appeal of an Adverse Determination shall include a detailed statement of the legal, factual or other basis for the Requester's objections to an Adverse Determination; a daytime phone number or email address where the Requester can be reached if the NCPC requires additional information or clarification regarding the appeal; copies of the initial Request and the NCPC's written response; and for an Adverse Determination of a Request for Expedited Processing or a Fee Waiver, a demonstration of compliance with the requirements of §§ 602.8(a) and (c) or 602.15(a) through (c) respectively.

(c) The Chairman shall respond to an appeal of an Adverse Determination in writing within 20 Workdays of receipt.

(1) If the Chairman grants the appeal, the Chairman shall notify the Requester, and the NCPC shall make available copies of the Requested Records promptly thereafter upon receipt of the appropriate fee determined in accordance with § 602.13.

(2) If the Chairman denies the appeal in whole or in part, the letter to the Requester shall state

(i) The reason(s) for the denial, including the FOIA exemptions(s) applied;

(ii) A statement that the decision is final;

(iii) A notice of the Requester's right to seek judicial review of the denial in the District Court of the United States in either the locale in which the Requester resides, the locale in which the Requester has his/her principal place of business, or in the District of Columbia; and

(iv) A notice that the Requester may seek dispute resolution services from either the NCPC FOIA Public Liaison or the Office of Government Information Services (OGIS) to resolve disputes between a Requester and the NCPC as a non-exclusive alternative to litigation. Contact information for OGIS can be obtained from the OGIS Web site at *ogis@nara.gov.*

(d) The NCPC shall not act on an appeal of an Adverse Determination if the underlying FOIA Request becomes the subject of FOIA litigation.

(e) A party seeking court review of an Adverse Determination must first appeal the decision under this section to NCPC.

§ 602.13 Fees.

(a) NCPC shall charge fees for processing FOIA requests in accordance with the provisions of this section and OMB Guidelines.

(b) For purposes of assessing fees, NCPC shall categorize Requesters into three categories: Commercial Use Requesters; Noncommercial Scientific Institutions, Educational Institutions, and News Media Requesters; and all other Requesters. Different fees shall be charged depending upon the category into which a Requester falls. If fees apply, a Requesters may seek a fee waiver in accordance with the requirements of § 602.15.

(c) Search Fees shall be charged as follows:

(1) NCPC shall not charge Search fees to Requests made by Educational Institutions, Noncommercial Scientific Institutions, or Representatives of the New Media. NCPC shall charge Search fees to all other Requesters subject to the restrictions of paragraph (f)(5) of this section even if NCPC fails to locate any responsive Records or if the NCPC withholds Records located based on a FOIA exemption.

(2) For each quarter hour spent by personnel searching for Requested Records, including electronic searches that do not require new programming, the Search fees shall be calculated based on the average hourly General Schedule (GS) base salary, plus the District of Columbia locality payment, plus 16 percent for benefits of employees in the following three categories: Staff Assistant (assigned at the GS 9–11 grades); Professional Personnel (assigned at the GS 11–13 grades); and Managerial Staff (assigned at the 14–15 grades). For a Staff Assistant the quarter hour fee to Search for and retrieve a Requested Record shall be $9.00. If a Search and retrieval cannot be performed entirely by a Staff Assistant, and the identification of Records within the scope of a Request requires the use of Professional Personnel, the fee shall be $12.00 for each quarter hour of Search time spent by Professional Personnel. If the time of Managerial Personnel is required, the fee shall be $18.00 for each quarter hour of Search time spent by Managerial Personnel.

(3) For a computer Search of Records, Requesters shall be charged the Direct Costs of creating a computer program, if necessary, and/or conducting the Search. Direct Costs for a computer Search shall include the cost that is directly attributable to the Search for responsive Records and the costs of the operator's salary for the time attributable to the Search.

(d) Duplication fees shall be charged to all Requesters, subject to the limitations of paragraph (f)(5) of this section. For a paper photocopy of a Record (no more than one copy of which shall be supplied), the fee shall be 10 cents per page for single or double sided copies, 90 cents per page for 8½ by 11 inch color copies, and $1.50 per page for color copies up to 11 x 17 inches per page. For copies produced by computer, and placed on an electronic data saving device or provided as a printout, the NCPC shall charge the Direct Costs, including operator time, of producing the copy. For other forms of Duplication, the NCPC shall charge the Direct Costs of that Duplication.

(e) Review fees shall be charged to only those Requesters who make a Commercial Use Request. Review fees will be charged only for the NCPC initial Review of a Record to determine whether an exemption applies to a particular Record or portion thereof. No charge will be made for Review at the administrative appeal level for an exemption already applied. However, Records or portions thereof withheld under an exemption that is subsequently determined not applicable upon appeal may be reviewed again to determine whether any other exemption not previously considered applies. If the NCPC determines a different exemption applies, the costs of that Review are chargeable. Review fees will be charged at the same rates as those charged for a Search under paragraph (c)(2) of this section.

(f) The following limitations on fees shall apply:

(1) If NCPC fails to comply with the time limits in which to respond to a request, NCPC shall not charge Search fees or, in the case of Educational Institutions, Noncommercial Scientific Institutions, or Representatives of the News Media, duplication fees, except as described in paragraphs (f)(2)–(4) of this section.

(2) If NCPC has determined that unusual circumstances as defined by the FOIA apply, and the agency provided timely written notice to the Requester in accordance with the FOIA, a failure to comply with the time limit shall be excused for an additional 10 days.

(3) If NCPC determines that Unusual Circumstances exist, and more than 5000 pages of responsive records are necessary to respond to the Request, NCPC may charge Search fees. NCPC may also charge duplication fees in the case of Educational Institutions, Noncommercial Scientific Institutions, or Representatives of the News Media. The provisions of this paragraph shall only apply if NCPC provides timely written notice of the Unusual Circumstances to the Requester and discusses with the Requester via mail, e-mail or phone (or made at least three good faith efforts to do so) how to effectively limit the scope of the Request.

(4) If a court has determined that exceptional circumstances exist, as defined by the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order.

(5) No Search or Review fees shall be charged for a quarter-hour period unless more than half of that period is required for Search or Review.

(6) Except for Requesters of a Commercial Use Request, the NCPC shall provide without charge the first two hours of Search (or the cost equivalent) and the first 100 pages of Duplication (or the cost equivalent);

(7) Except for Requesters of a Commercial Use Request, no fee shall be charged for a Request if the total fee calculated under this section equals $50.00 or less.

(8) Requesters other than those making a Commercial Use Request shall not be charged a fee unless the total cost of a Search in excess of two hours plus the cost of Duplication in excess of 100 pages totals more than $50.00.

(g) If the NCPC determines or estimates fees in excess of $50.00, the NCPC shall notify the Requester of the actual or estimated amount of total fees,

unless in its initial Request the Requester has indicated a willingness to pay fees as high as those determined or estimated. If only a portion of the fee can be estimated, the NCPC shall advise the Requester that the estimated fee constitutes only a portion of the total fee. If the NCPC notifies a Requester that actual or estimated fees amount to more than $50.00, the Request shall not be considered received for purposes of calculating the timeframe for a Response, and no further work shall be undertaken on the Request until the Requester agrees to pay the anticipated total fee. Any such agreement shall be memorialized in writing. A notice under this paragraph shall offer the Requester an opportunity to work with the NCPC to reformulate the Request to meet the Requester's needs at a lower cost.

(h) Apart from other provisions of this section, if the Requester asks for, or the NCPC chooses as a matter of administrative discretion to provide a special service—such as certifying that Records are true copies or sending them by other than ordinary mail, the actual costs of special service shall be charged.

(i) The NCPC shall charge interest on any unpaid fee starting on the 31st day following the date of billing the Requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 (Interest and Penalty on Claims) and will accrue from the date of the billing until payment is received by the NCPC. The NCPC shall follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(j) Where the NCPC reasonably believes that one or more Requesters are acting in concert to subdivide a Request into a series of Requests to avoid fees, the NCPC may aggregate the Requests and charge accordingly. The NCPC shall presume that multiple Requests of this type made within a 30-day period have been made to avoid fees. Where Requests are separated by a time period in excess of 30 days, the NCPC shall aggregate the multiple Requests if a solid basis exists for determining aggregation is warranted under all circumstances involved.

(k) Advance payments shall be treated as follows:

(1) For Requests other than those described in paragraphs (k)(2) and (3) of this section, the NCPC shall not require an advance payment. An advance payment refers to a payment made before work on a Request is begun or continued after being stopped for any reason but does not extend to payment owed for work already completed but not sent to a Requester.

(2) If the NCPC determines or estimates a total fee under this section of more than $250.00, it shall require an advance payment of all or part of the anticipated fee before beginning to process a Request, unless the Requester provides satisfactory assurance of full payment or has a history of prompt payment.

(3) If a Requester previously failed to pay a properly charged FOIA fee to the NCPC within 30 days of the date of billing, the NCPC shall require the Requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before the NCPC begins to process a new Request or continues processing a pending Request from that Requester.

(4) If the NCPC requires advance payment or payment due under paragraphs (k)(2) or (3) of this section, the Request shall not be considered received and no further work will be undertaken on the Request until the required payment is received.

(l) Where Records responsive to Requests are maintained for distribution by Agencies operating statutorily based fee schedule programs, the NCPC shall inform Requesters of the steps for obtaining Records from those sources so that they may do so most economically.

(m) All fees shall be paid by personal check, money order or bank draft drawn on a bank of the United States, made payable to the order of the Treasurer of the United States.

§ 602.15 Fee waiver requirements.

(a) Records responsive to a Request shall be furnished without charge or at a charge reduced below that established under § 602.14 if the Requester demonstrates to the NCPC, and the NCPC determines, based on all available information, that Disclosure of the Requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and disclosure of the information is not primarily in the commercial interest of the Requester.

(b) To determine if disclosure of the Requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, the Requester shall demonstrate, and NCPC shall consider, the following factors:

(1) Whether the subject of the Requested Records concerns the operations or activities of the government. The subject of the Requested Records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote or attenuated.

(2) Whether the disclosure is likely to contribute to an understanding of government operations or activities. The portions of the Requested Records eligible for disclosure must be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, is not likely to contribute to an understanding of government operations and activities because this information is already known.

(3) Whether disclosure of the Requested information will contribute to public understanding. The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the Requester. A Requester's expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. It shall be presumed that a Representative of the News Media satisfies this consideration.

(4) Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities. The public's understanding of the subject in question must be enhanced by the disclosure to a significant extent, as compared to the level of public understanding existing prior to the disclosure. The NCPC shall not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is important enough to be made public.

(c) To determine whether disclosure of the information is not primarily in the commercial interest of the Requester, the Requester shall demonstrate, and NCPC shall consider, the following factors:

(1) Whether the Requester has a commercial interest that would be furthered by the Requested disclosure. The NCPC shall consider any commercial interest of the Requester (with reference to the definition of Commercial Use Request in § 602.3(f)), or of any person on whose behalf the Requester may be acting, that would be furthered by the Requested disclosure. Requesters shall be given an opportunity in the administrative process to provide explanatory information regarding this consideration.

(2) Whether any identified commercial interest of the Requester is sufficiently large in comparison with the public interest in disclosure that disclosure is primarily in the commercial interest of the Requester. A Fee Waiver is justified where the public interest standard of paragraph (b) of this section is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. The NCPC ordinarily shall presume that a Representative of the News Media satisfies the public interest standard, and the public interest will be the interest primarily served by disclosure to that Requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest.

(d) Where only some of the Records to be released satisfy the requirements for a Fee Waiver, a Fee Waiver shall be granted for those Records.

(e) Requests for a Fee Waiver should address the factors listed in paragraphs (a) through (c) of this section, insofar as they apply to each Request. The NCPC shall exercise its discretion to consider the cost-effectiveness of its investment of administrative resources in this decision-making process in deciding to grant Fee Waivers.

§ 602.15 Preservation of FOIA records.

(a) The NCPC shall preserve all correspondence pertaining to FOIA Requests received and copies or Records provided until disposition or destruction is authorized by the NCPC's General Records schedule established in accordance with the National Archives and Records Administration (NARA) approved schedule.

(b) Materials that are responsive to a FOIA Request shall not be disposed of or destroyed while the Request or a related lawsuit is pending even if the Records would otherwise be authorized for disposition under the NCPC's General Records Schedule or NARA or other NARA-approved records schedule.

Dated: September 14, 2017.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2017–19997 Filed 9–19–17; 8:45 am]

BILLING CODE 7502–20–P

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Parts 455 and 603

Privacy Act Regulations

AGENCY: National Capital Planning Commission.

ACTION: Final rule.

SUMMARY: The National Capital Planning Commission (NCPC or Commission) hereby adopts new regulations governing NCPC's implementation of the Privacy Act, as amended and the privacy provisions of the E-Government Act of 2002. NCPC must comply with the requirements of the Privacy Act and the privacy provisions of the E-Government Act of 2002 for records maintained on individuals and personal information stored as a hard copy or electronically.

DATES: This rule is effective October 20, 2017.

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel at 202–482–7223, *anne.schuyler@ncpc.gov.*

SUPPLEMENTARY INFORMATION: NCPC adopted its current Privacy Regulations (1 CFR part 455) in 1977 pursuant to 5 U.S.C. 552a. Since that time, Congress amended the Privacy Act multiple times including the E-Government Act of 2002 which addressed requirements for maintaining electronic privacy records. The regulations update NCPC's existing Privacy Regulations to reflect amendments over time. The Office of the Federal Register recently assigned NCPC a new chapter of 1 CFR—Chapter VI—to allow NCPC to group all its regulations together in one chapter.

NCPC eliminates its Privacy Regulations at 1 CFR part 455 and codifies the new Privacy Regulations at 1 CFR part 603.

I. Section by Section Analysis of NCPC's Privacy Act Regulations

§ 603.1 Purpose and scope. This section advises the purpose of the regulations is to implement a privacy program consistent with the requirements of the Privacy Act and the privacy related provision of the E-Government Act of 2002. As stated in the section, NCPC's privacy program extends to all Records maintained by NCPC in a System of Records; the responsibilities of NCPC to safeguard this information; the procedures by which Individuals may request notification of the existence of a Record about them, access to Records about them, an amendment to or correction of the Records about them, and an accounting of disclosures of those Records by the NCPC; the procedures by which an Individual may appeal an Adverse Determination, and the conduct of a Privacy Impact Assessment.

§ 603.2 Definitions. This section defines terms frequently used in the regulations. The section includes the five terms defined in the existing regulations—Individual, Maintain, Record, Routine Use and System of Records. It adds the definitions for the following terms: Adverse Determination, E-Government Act of 2002, Information in Identifiable Form (IIF), Information Technology, Privacy Act Officer (PAO), Privacy Act, Privacy Impact Assessment (PIA), Record, Requester, Request for Access to a Record, Request for Amendment or Correction of a Record, Senior Agency Official for Privacy (SAOP), System of Records Notice (SORN), and Workday.

§ 603.3 Privacy Act program responsibilities. This section requires NCPC to designate a SAOP and a PAO and outlines the responsibilities associated with both positions. It also enumerates the Privacy Act responsibilities of other NCPC personnel.

§ 603.4 Standards used to Maintain Records. This section establishes the standards NCPC must follow regarding privacy information. The section requires NCPC to limit private information to only that necessary to achieve the purposes for which it is collected and stored; to ensure all information collected is accurate, relevant, timely, and complete; and to collect privacy information regarding an Individual's rights, benefits and privileges under federal programs from the Individual to the maximum extent possible subject to collection from third parties in certain circumstances.

§ 603.5 Notice to Individuals supplying information. This section enumerates the information NCPC must provide Individuals who are asked to supply information about themselves. The required information enumerated includes the purpose for which NCPC intends to use the information; the effects upon an Individual for not providing the information; and the form of notice NCPC must supply in response to an Individual's provision of information.

§ 603.6 System of Records (SOR) Notice (SORN). This section requires NCPC to publish a notice in the **Federal Register** describing each SOR 40-days before establishing a new or revising an existing SOR. The section requires the SORN to include the purpose of the Records and their location; the types of Individuals contained in the SOR; the

authority for maintaining the SOR; the purpose or reason why NCPC collects the Records and their intended routine uses; the sources of the Records in the SOR; the policies and practices regarding storage, retrieval, access controls, retention, and disposal of the Records; the identification of the agency official responsible for the SOR; and the procedures for notifying an Individual who requests whether the SOR contains information about him/her.

§ 603.7 Procedures to safeguard Records. This section describes the procedures utilized by NCPC to safeguard hard copy and computerized records subject to the Privacy Act. The section requires hard copy Records to be stored in a locked room subject to restricted access with external posted warning signs limiting access to authorized personnel and/or stored in a locked container with identical precautions to those used for a locked room. The section requires computerized Records to be maintained subject to the Safeguards recommended by the National Institute of Standards and Technology (NIST).

§ 603.8 Employee conduct. This section requires employees with duties requiring access to and handling of Records to do so in a manner that protects the integrity, security and confidentiality of the Records. It prohibits employee disclosure of records unless authorized by the rules in this part, permitted by NCPC's FOIA regulations (1 CFR part 602), or disclosed to the Individual to whom the Record pertains. The section also prohibits destruction or alteration of Records unless required as part of an employee's regular duties, required by regulations published by the National Archives Record Administration (NARA), or required by a court of law.

§ 603.9 Government contracts. This section requires contractors operating a System of Records on behalf of NCPC to abide by the requirements of the Privacy Act. It also equires a NCPC employee to oversee and manage the SOR operated by a contractor.

§ 603.10 Conditions for disclosure. Subject to a list of enumerated exceptions, this section precludes disclosure of a Record contained in a SOR unless prior written consent is obtained from the Individual to whom the record pertains.

§ 603.11 Accounting of disclosures. This section requires NCPC to prepare an accounting of disclosure when a Record is disclosed to any person or to another agency.

The section requires the contents of an accounting to include the date, nature, and purpose of the disclosure and the name and address of the person or agency to whom the disclosure was made. The section also requires Accountings of disclosures to be made available to the Individual about whom the disclosed Record pertains except under limited circumstances. It further requires changes to disclosed Records to be shared with the person or agency to whom the Record was originally disclosed.

§ 603.12 Requests for notification of the existence of Records. This section advises Individuals how to determine whether a System of Records maintained by NCPC contains Records pertaining to them. It requires Individuals either to contact NCPC in writing or appear at NCPC's offices by appointment to make the subject request. The section requires the NCPC PAO to respond to a request in writing within 20 Workdays, to include in the response the Reason(s) for the PAO's determination, and to advise the requester of the right to appeal the decision.

§ 603.13 Request for access to Records. This section advises Individuals how to access NCPC records about themselves. It requires Individuals to request the right to access Records either in writing or to appear at NCPC's offices by appointment. The section enumerates the information required to be included in a request, and obligates Individuals to present certain specified identification to access the requested Records. The section also requires the NCPC PAO to respond to a request for access in writing within 20 Workdays, to state in the response the reason for the PAO's determination, and to advise the Requester of the right to appeal an Adverse Determination.

§ 603.14 Requests for amendment or correction of Records. This section outlines the process Individuals must follow to amend or correct Records about them that they believe are inaccurate, irrelevant, untimely or incomplete. The section requires a request for amendment or correction to be in writing, include certain specified information, and to be made only if the Individual has previously requested and been granted access to the Record. The section also requires the NCPC PAO to respond to a request for amendment or correction in writing within 20 Workdays, to state the reason for the PAO's determination in the response, to advise the requester of the right to appeal an Adverse Determination, to ensure the Record is amended or corrected in whole or in part if the PAO approves the request, and to place a notation of a dispute on the Record if the request is denied.

§ 603.15 Requests for an accounting of Records disclosures. This section outlines the process Individuals must follow to obtain information about disclosures of Records pertaining to them. It requires a request for information about Records disclosed to include certain specified information. The section also requires the NCPC PAO to respond to a request for information about disclosures in writing within 20 Workdays, to include, in the event of a disclosure, the date, nature and purpose of the disclosure, the name and address of the person or agency to whom the disclosure was made. The section further requires the PAO to state the reason for his/her determination and to advise the requester of the right to appeal an Adverse Determination.

§ 602.16 Appeals of Adverse Determinations. This section describes the process Individuals must follow to appeal an Adverse Determination. As defined in the definition section of the regulations Adverse Determination means a decision to withhold any requested Record in whole or in part; a decision that the requested Record does not exist or cannot be located; a decision that the requested information is not a Record subject to the Privacy Act; a decision that a Record, or part thereof, does not require amendment or correction; a decision to refuse to disclose an accounting of disclosure; and a decision to deny a fee waiver. The term also encompasses a challenge to NCPC's determination that Records have not been described adequately, that there are no responsive Records, or that an adequate search has been conducted. The section requires an Individual to submit a written appeal to the Chairman of the Commission stating the legal, factual or other basis for the Appeal, and it requires the Chairman to provide a written response within 30 Workdays. The section also requires NCPC to take prompt action to respond affirmatively to the Individual's original request if the Chairman grants the request and to state the reasons for a denial and the right to appeal the denial to a court of competent jurisdiction.

§ 603.17 Fees. This section states the fees to be charged for the search for and duplication of Records. It advises fees for duplication shall be those established by NCPC's FOIA Regulations, and it states there are no fees for the search or review of Records requested by an Individual.

§ 603.18 Privacy Impact Assessments. This section states when NCPC must conduct a Privacy Impact Assessment (PIA), the contents of a PIA, and the process for approving the PIA. The section requires a PIA to be

conducted before developing or procuring an IT system that collects, maintains or disseminates Information that identifies an Individual (IIF or Information in Identifiable Form) or when NCPC installs a new collection of IIF for 10 or more persons other than employees, or agencies of the federal government. The section also requires a PIA to analyze a number of factors related to the collection, use, owner, storage and manner of securing the IIF, and it requires the PIA to be approved and posted on NCPC's Web site prior to undertaking the action that required the PIA.

II. Summary of and Response to Comments

NCPC published a proposed rule addressing revisions to its current Privacy Act Regulations in the **Federal Register** on August 1, 2017 for a 30-day public comment period. The public comment period closed on August 31, 2017.

NCPC received no comments on its proposed Privacy Act Regulations. Consequently, the proposed Privacy Act Regulations are now being advertised as the final Privacy Act Regulations.

III. Compliance With Laws and Executive Orders

Executive Orders 12866 and 13563

By Memorandum dated October 12, 1993 from Sally Katzen, Administrator, Office of Information and Regulatory Affairs (OIRA) to Heads of Executive Departments and Agencies, and Independent Agencies, OMB rendered the NCPC exempt from the requirements of Executive Order 12866 (See, Appendix A of cited Memorandum). Nonetheless, NCPC endeavors to adhere to the provisions of Executive Orders and developed this rule in a manner consistent with the requirements of Executive Order 13563.

Executive Order 13771

By virtue of its exemption from the requirements of EO 12866, NCPC is exempted from this Executive Order. NCPC confirmed this fact with OIRA.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the NCPC certifies that the rule will not have a significant economic effect on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It does not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs for individuals, various levels of governments or various regions; and does not have a significant adverse effect on completion, employment, investment, productivity, innovation or the competitiveness of US enterprises with foreign enterprises.

Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.)

A statement regarding the Unfunded Mandates Reform Act is not required. The rule neither imposes an unfunded mandate of more than $100 million per year nor imposes a significant or unique effect on State, local or tribal governments or the private sector.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The rule does not substantially and directly affect the relationship between the Federal and state governments.

Civil Justice Reform (Executive Order 12988)

The General Counsel of NCPC has determined that the rule does not unduly burden the judicial system and meets the requirements of Executive Order 12988 3(a) and 3(b)(2).

Paperwork Reduction Act

The rule does not contain information collection requirements, and it does not require a submission to the Office of Management and Budget under the Paperwork Reduction Act.

9. National Environmental Policy Act

The rule is of an administrative nature, and its adoption does not constitute a major federal action significantly affecting the quality of the human environment. NCPC's adoption of the rule will have minimal or no effect on the environment; impose no significant change to existing environmental conditions; and will have no cumulative environmental impacts.

10. Clarity of the Regulation

Executive Order 12866, Executive Order 12988, and the Presidential Memorandum of June 1, 1998 requires the NCPC to write all rules in plain language. NCPC maintains the rule meets this requirement. Those individuals reviewing the rule who believe otherwise should submit specific comments to the addresses noted above recommending revised language for those provision or portions thereof where they believe compliance is lacking.

11. Public Availability of Comments

Be advised that personal information such as name, address, phone number, electronic address, or other identifying personal information contained in a comment may be made publically available. Individuals may ask NCPC to withhold the personal information in their comment, but there is no guarantee the agency can do so.

List of Subjects in 1 CFR Parts 455 and 603 Privacy

For the reasons stated in the preamble, the National Capital Planning Commission amends 1 CFR Chapters IV and VI as follows:

CHAPTER IV—MISCELLANEOUS AGENCIES

PART 455—[Removed]

■ 1. Under the authority of 40 U.S.C. 8711(a) remove part 455.

CHAPTER VI—NATIONAL CAPITAL PLANNING COMMISSION

■ 2. Add part 603 to read as follows:

PART 603—PRIVACY ACT REGULATIONS

Sec.

603.1 Purpose and scope.
603.2 Definitions.
603.3 Privacy Act program responsibilities.
603.4 Standard used to Maintain Records.
603.5 Notice to Individuals supplying information.
603.6 System of Records Notice or SORN.
603.7 Procedures to safeguard Records.
603.8 Employee conduct.
603.9 Government contracts.
603.10 Conditions of disclosure.
603.11 Accounting for disclosures.
603.12 Requests for notification of the existence of Records.
603.13 Requests for access to Records.
603.14 Requests for Amendment or Correction of Records.
603.15 Requests for Accounting of Record disclosures.
603.16 Appeals of Adverse Determinations.
603.17 Fees.
603.18 Privacy Impact Assessments.

Authority: 5 U.S.C. 552a as amended and 44 U.S.C. ch. 36.

§ 603.1 Purpose and scope.

(a) This part contain the rules the National Capital Planning Commission (NCPC) shall follow to implement a privacy program as required by the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act or Act) and the privacy provisions of the E-Government Act of 2002 (44 U.S.C. ch. 36) (E-Government Act). These rules should be read together with the Privacy Act and the

privacy related provisions of the E-Government Act, which provide additional information respectively about Records maintained on individuals and protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) Consistent with the requirements of the Privacy Act, the rules in this part apply to all Records maintained by NCPC in a System of Records; the responsibilities of the NCPC to safeguard this information; the procedures by which Individuals may request notification of the existence of a record, request access to Records about themselves, request an amendment to or correction of those Records, and request an accounting of disclosures of those Records by the NCPC; and the procedures by which an Individual may appeal an Adverse Determination.

(c) Consistent with the privacy related requirements of the E-Government Act, the rules in this part also address the conduct of a privacy impact assessment prior to developing or procuring information technology that collects, maintains, or disseminates information in an identifiable form, initiating a new electronic collection of information in identifiable form for 10 or more persons excluding agencies, instrumentalities or employees of the federal government, or changing an existing System that creates new privacy risks.

(d) In addition to the rules in this part, the NCPC shall process all Privacy Act Requests for Access to Records in accordance with the Freedom of Information Act (FOIA), 5 U.S.C. 552, and part 602 of this chapter.

§ 603.2 Definitions.

For purposes of this part, the following definitions shall apply:

Adverse Determination shall mean a decision to withhold any requested Record in whole or in part; a decision that the requested Record does not exist or cannot be located; a decision that the requested information is not a Record subject to the Privacy Act; a decision that a Record, or part thereof, does not require amendment or correction; a decision to refuse to disclose an accounting of disclosure; and a decision to deny a fee waiver. The term shall also encompass a challenge to NCPC's determination that Records have not been described adequately, that there are no responsive Records or that an adequate search has been conducted.

E-Government Act of 2002 shall mean Public Law 107–347, Dec. 17, 2002, 116 Stat. 2899, the privacy portions of which are set out as a note under section 3501 of title 44.

Individual shall mean a citizen of the United States or an alien lawfully admitted for permanent residence.

Information in Identifiable Form (IIF) shall mean information in an Information Technology system or an online collection that directly identifies an individual, *e.g.,* name, address, social security number or other identifying number or code, telephone number, email address and the like; or information by which the NCPC intends to identify specific individuals in conjunction with other data elements, *e.g.,* indirect identification that may include a combination of gender, race, birth date, geographic identifiers, and other descriptions.

Information Technology (IT) shall mean, as defined in the Clinger Cohen Act (40 U.S.C. 11101(6)), any equipment, software or interconnected system or subsystem that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission or reception of data.

Maintain shall include maintain, collect, use or disseminate a Record.

Privacy Act Officer shall mean the individual within the NCPC charged with responsibility for coordinating and implementing NCPC's Privacy Act program.

Privacy Act or Act shall mean the Privacy Act of 1974, as amended and codified at 5 U.S.C. 552a.

Privacy Impact Assessment (PIA) shall mean an analysis of how information is handled to ensure handling conforms to applicable legal, regulatory, and policy requirements regarding privacy; to determine the risks and effects of collecting, maintaining and disseminating information in identifiable form in an electronic system; and to examine and evaluate protections and alternative processes for handling information to mitigate potential privacy risks.

Record shall mean any item, collection, or grouping of information about an Individual that is Maintained by the NCPC, including, but not limited to, an Individual's education, financial transactions, medical history, and criminal or employment history and that contains a name, or identifying number, symbol, or other identifying particular assigned to the Individual, such as a finger or voice print or photograph.

Requester shall mean an Individual who makes a Request for Access to a Record, a Request for Amendment or Correction of a Record, or a Request for Accounting of a Record under the Privacy Act.

Request for Access to a Record shall mean a request by an Individual made to the NCPC pursuant to subsection (d)(1) of the Privacy Act to gain access to his/her Records or to any information pertaining to him/her in the system and to permit him/her, or a person of his/her choosing, to review and copy all or any portion thereof.

Request for Amendment or Correction of a Record shall mean a request made by an Individual to the NCPC pursuant to subsection (d)(2) of the Privacy Act to amend or correct a Record pertaining to him/her.

Routine Use shall mean with respect to disclosure of a Record, the use of such Record for a purpose which is compatible with the purpose for which the Record is collected.

Senior Agency Official for Privacy (SAOP) shall mean the individual within NCPC responsible for establishing and overseeing the NCPC's Privacy Act program.

System of Records or System (SOR or Systems) shall mean a group of any Records under the control of the NCPC from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

System of Record Notice (SORN) shall mean a notice published in the **Federal Register** by the NCPC for each new or revised System of Records intended to solicit public comment on the System prior to implementation.

Workday shall mean a regular Federal workday excluding Saturday, Sunday and legal Federal holidays when the federal government is closed.

§ 603.3 Privacy Act program responsibilities.

(a) The NCPC shall designate a Senior Agency Official for Privacy (SAOP) to establish and oversee the NCPC's Privacy Act Program and ensure compliance with privacy laws, regulations and the NCPC's privacy policies. Specific responsibilities of the SAOP shall include:

(1) Reporting to the Office of Management and Budget (OMB) and Congress on the establishment of or revision to Privacy Act Systems;

(2) Reporting periodically to OMB on Privacy Act activities as required by law and OMB;

(3) Signing Privacy Act SORNS for publication in the **Federal Register**;

(4) Approving and signing PIAs; and

(5) Serving as head of the agency response team when responding to a large-scale information breach.

(b) The NCPC shall designate a Privacy Act Officer (PAO) to coordinate

and implement the NCPC's Privacy Act program. Specific responsibilities of the PAO shall include:

(1) Developing, issuing and updating, as necessary, the NCPC's Privacy Act policies, standards, and procedures;

(2) Maintaining Privacy Act program Records and documentation;

(3) Responding to Privacy Act Requests for Records and coordinating appeals of Adverse Determinations for Requests for access to Records, Requests for Amendment or Correction of Records, and Requests for accounting for disclosures;

(4) Informing Individuals of information disclosures;

(5) Working with the NCPC's Division Directors or designated staff to develop an appropriate form for collection of Privacy Act information and including in the form a Privacy Act statement explaining the purpose for collecting the information, how it will be used, the authority for such collection, its routine uses, and the effect upon the Individual of not providing the requested information;

(6) Assisting in the development of new or revised SORNs;

(7) Developing SORN reports for OMB and Congress;

(8) Submitting new or revised SORNS to the **Federal Register** for publication;

(9) Assisting in the development of computer matching systems;

(10) Preparing Privacy Act, Computer Matching, and other reports to OMB as required; and

(11) Evaluating PIA to ensure compliance with E-Government Act requirements.

(c) Other Privacy related responsibilities shall be shared by the NCPC Division Directors, the NCPC Chief Information Officer (CIO), the NCPC System Developers and Designers, the NCPC Configuration Control Board, the NCPC employees, and the Chairman of the Commission.

(1) The NCPC Division Directors shall be responsible for coordinating with the PAO the implementation of the requirements set forth in this part for Systems of Records applicable to their area of management and the preparation of PIA prior to development or procurement of new systems that collect, maintain or disseminate IIF. Specific responsibilities include:

(i) Reviewing existing SOR for need, relevance, and purpose for existence, and proposing SOR changes to the PAO as necessary in response to altered circumstances;

(ii) Reviewing existing SOR to ensure information is accurate, complete and up to date;

(iii) Coordinating with the PAO the preparation of new or revised SORN;

(iv) Coordinating with the PAO the development of an appropriate form for collection of Privacy Act information and including in the form a Privacy Act statement explaining the purpose for collecting the information, how it will be used, the authority for such collection, its routine uses, and the effect upon the Individual of not providing the requested information;

(v) Collecting information directly from individuals whenever possible;

(vii) Assisting the PAO with providing access to Individuals who request information in accordance with the procedures established in §§ 603.12, 603.13, 603.14 and 603.15.

(vii) Amending Records if and when appropriate, and working with the PAO to inform recipients of former Records of such amendments;

(viii) Ensuring that System information is used only for its stated purpose;

(ix) Establishing and overseeing appropriate administrative, technical, and physical safeguards to ensure security and confidentiality of Records; and

(x) Working with the SAOP, the PAO and Configuration Control Board (CCB) on SORs, preparing a PIA, if needed, and obtaining SAOP approval for a PIA prior to its publication on the NCPC Web site.

(2) The CIO shall be responsible for implementing IT security management to include security for information protected by the Privacy Act and the E-Government Act of 2002. Specific responsibilities include:

(i) Overseeing security policy for privacy data; and

(ii) Reviewing PIAs prepared for information security considerations.

(3) The NCPC System Developers and Designers shall be responsible for ensuring that the IT system design and specifications conform to privacy standards and requirements and that technical controls are in place for safeguarding personal information from unauthorized access.

(4) The NCPC CCB shall, among other responsibilities, verify that a PIA has been prepared prior to approving a request to develop or procure information technology that collects, maintains, or disseminates Information in Identifiable Form.

(5) The NCPC employees shall ensure that any personal information they use in the conduct of their official responsibilities is protected in accordance with the rules set forth in this part.

(6) The Chairman of the Commission shall be responsible for acting on all appeals of Adverse Determinations.

§ 603.4 Standards used to Maintain Records.

(a) Records Maintained by the NCPC shall contain only such information about an Individual as is relevant and necessary to accomplish a purpose NCPC must accomplish to comply with relevant statutes or Executive Orders of the President.

(b) Records Maintained by the NCPC and used to make a determination about an Individual shall be accurate, relevant, timely, and complete to assure a fair determination.

(c) Information used by the NCPC in making a determination about an Individual's rights, benefits, and privileges under federal programs shall be collected, to the greatest extent practicable, directly from the Individual. In deciding whether collection of information about an Individual, as opposed to a third party is practicable, the NCPC shall consider the following:

(1) Whether the information sought can only be obtained from a third party;

(2) Whether the cost to collect the information from an Individual is unreasonable compared to the cost of collecting the information from a third party;

(3) Whether there is a risk of collecting inaccurate information from a third party that could result in a determination adverse to the Individual concerned;

(4) Whether the information collected from an Individual requires verification by a third party; and

(5) Whether the Individual can verify information collected from third parties.

(d) The NCPC shall not Maintain Records describing how an Individual exercises rights guaranteed by the First Amendment to the Constitution unless the maintenance of the Record is expressly authorized by statute or by the Individual about whom the Record is Maintained or pertinent to and within the scope of an authorized law enforcement activity.

§ 603.5 Notice to Individuals supplying information.

(a) Each Individual asked to supply information about himself/herself to be added to a System of Records shall be informed by the NCPC of the basis for requesting the information, its potential use, and the consequences, if any, of not supplying the information. Notice to the Individual shall state at a minimum:

(1) The legal authority for NCPC's solicitation of the information and whether disclosure is mandatory or voluntary;

(2) The principal purpose(s) for which the NCPC intends to use the information;

(3) The potential routine uses of the information by the NCPC as published in a Systems of Records Notice; and

(4) The effects upon the individual, if any, of not providing all or any part of the requested Information to the NCPC.

(b) When NCPC collects information on a standard form, the notice to the Individual shall either be provided on the form, on a tear off sheet attached to the form, or on a separate form, whichever is deemed the most practical by the NCPC.

(c) NCPC may ask an Individual to acknowledge, in writing, receipt of the notice required by this section.

§ 603.6 System of Records Notice or SORN.

(a) The NCPC shall publish a notice in the **Federal Register** describing each System of Records 40-days prior to the establishment of a new or revision to an existing System of Records.

(b) The SORN shall include:

(1) The name and location of the System of Records. The name shall identify the general purpose, and the location shall include whether the system is located on the NCPC's main server or central files. The physical address of either shall also be included.

(2) The categories or types of Individuals on whom NCPC Maintains Records in the System of Records;

(3) The categories or types of Records in the System;

(4) The statutory or Executive Order authority for Maintenance of the System;

(5) The purpose(s) or explanation of why the NCPC collects the particular Records including identification of all internal and routine uses;

(6) The policies and practices of the NCPC regarding storage, retrieval, access controls, retention and disposal of Records;

(7) The title and business address of the agency official responsible for the identified System of Records;

(8) The NCPC procedures for notification to an Individual who requests if a System of Records contains a Record about the Individual; and

(9) The NCPC sources of Records in the System.

§ 603.7 Procedures to safeguard Records.

(a) The NCPC shall implement the procedures set forth in this section to insure sufficient administrative, technical and physical safeguards exist to protect the security and confidentiality of Records. The enumerated procedures shall also protect against any anticipated threats or hazards to the security of Records with the potential to cause substantial harm, embarrassment, inconvenience, or unfairness to any Individual on whom information is Maintained.

(b) Manual Records subject to the Privacy Act shall be maintained by the NCPC in a manner commensurate with the sensitivity of the information contained in the Records. The following minimum safeguards or safeguards affording comparable protection shall apply to manual Systems of Records:

(1) The NCPC shall post areas where Records are maintained or regularly used with an appropriate warning sign stating access to the Records shall be limited to authorized persons. The warning shall also advise that the Privacy Act prescribes criminal penalties for unauthorized disclosure of Records subject to the Act.

(2) During work hours, the NCPC shall protect areas in which Records are Maintained or regularly used by restricting occupancy of the area to authorized persons or storing the Records in a locked container and room.

(3) During non-working hours, access to Records shall be restricted by their storage in a locked storage container and room.

(4) Any lock used to secure a room where Records are stored shall not be capable of being disengaged with a master key that opens rooms other than those in which Records are stored.

(c) Computerized Records subject to the Privacy Act shall be maintained, at a minimum, subject to the safeguards recommended by the National Institute of Standards and Technology (NIST) Special Publications 800–53, Recommended Security Controls for Federal Information Systems and Organizations as revised from time to time or any superseding guidance offered by NIST or other federal agency charged with the responsibility for providing recommended safeguards for computerized Records subject to the Privacy Act.

(d) NCPC shall maintain a System of Records comprised of Office of Personnel Management (OPM) personnel Records in accordance with standards prescribed by OPM and published at 5 CFR 293.106–293.107.

§ 603.8 Employee conduct.

(a) Employees with duties requiring access to and handling of Records shall, at all times, take care to protect the integrity, security, and confidentiality of the Records.

(b) No employee of the NCPC shall disclose Records unless disclosure is permitted by § 603.10(b), by part 602 of this chapter, or disclosed to the Individual to whom the Record pertains.

(c) No employee of the NCPC shall alter or destroy a Record unless such Record or destruction is undertaken in the course of the employee's regular duties or such alteration or destruction is allowed pursuant to regulations published by the National Archives and Records Administration (NARA) or required by a court of competent jurisdiction. Records shall not be destroyed or disposed of while they are the subject of a pending request, appeal or lawsuit under the Privacy Act.

§ 603.9 Government contracts.

(a) When a contract provides for third party operation of a SOR on behalf of the NCPC to accomplish a NCPC function, the contract shall require that the requirements of the Privacy Act and the rules in this part be applied to such System.

(b) The Division Director responsible for the contract shall designate a NCPC employee to oversee and manage the SOR operated by the contractor.

§ 603.10 Conditions for disclosure.

(a) Except as set forth in paragraph (b) of this section, no Record contained in a SOR shall be disclosed by any means of communication to any person, or to another agency, unless prior written consent is obtained from the Individual to whom the Record pertains.

(b) The limitations on disclosure contained in paragraph (a) of this section shall not apply when disclosure of a Record is:

(1) To employees of the NCPC for use in the performance of their duties;

(2) Required by the Freedom of Information Act (FOIA), 5 U.S.C. 555;

(3) For a Routine Use as described in a SORN;

(4) To the Bureau of Census for statistical purposes, provided that the Record must be transferred in a form that precludes individual identification;

(5) To an Individual who provides NCPC adequate written assurance that the Record shall be used solely for statistical or research purposes, provided that the Record must be transferred in a form that precludes Individual identification;

(6) To the NARA because the Record warrants permanent retention because of historical or other national value as determined by NARA or to permit NARA to determine whether the Record has such value;

(7) To a law enforcement agency for a civil or criminal law enforcement activity, provided that the law enforcement agency must submit a written request to the NCPC specifying the Record(s) sought and the purpose for which they will be used;

(8) To any person upon demonstration of compelling information that an Individual's health or safety is at stake and provided that upon disclosure, notification is given to the Individual to whom the Record pertains at that Individual's last known address;

(9) To either House of Congress, and any committee or subcommittee thereof, to include joint committees of both houses and any subcommittees thereof, when a Record falls within their jurisdiction;

(10) To the Comptroller General, or any of his authorized representatives, to allow the Government Accountability Office to perform its duties;

(11) Pursuant to a court order by a court of competent jurisdiction; and

(12) To a consumer reporting agency trying to collect a claim of the government as authorized by 31 U.S.C. 3711(e).

§ 603.11 Accounting of disclosures.

(a) Except for disclosures made under §§ 603.10(b)(1)–(2), when a Record is disclosed to any person, or to another agency, NCPC shall prepare an accounting of the disclosure. The accounting shall Record the date, nature, and purpose of the disclosure and the name and address of the person or agency to whom the disclosure was made. The NCPC shall maintain all accountings for a minimum of five years or the life of the Record, whichever is greatest, after the disclosure is made.

(b) Except for disclosures under § 603.10(b)(7), accountings of all disclosures shall be made available to the Individual about whom the disclosed Records pertains at his/her request. Such request shall be made in accordance with the requirements of § 603.15.

(c) For any disclosure for which an accounting is made, if a subsequent amendment or correction or notation of dispute is made to a Record by the NCPC in accordance with the requirements of § 603.14, the Individual and/or agency to whom the Record was originally disclosed shall be informed.

§ 603.12 Requests for notification of the existence of Records.

(a) An Individual seeking to determine whether a System of Records contains Records pertaining to him/her shall do so by appearing in person at NCPC's official place of business or by written correspondence to the NCPC PAO. In-person requests shall be by appointment only with the PAO on a Workday during regular office hours. Written requests sent via the U.S. mail shall be directed to the Privacy Act Officer at NCPC's official address listed at *www.ncpc.gov.* If sent via email or facsimile, the request shall be directed to the email address or facsimile number indicated on the NCPC Web site. To expedite internal handling of Privacy Act Requests, the words Privacy Act Request shall appear prominently on the envelop or the subject line of an email or facsimile cover sheet.

(b) The Request shall state that the Individual is seeking information concerning the existence of Records about himself/herself and shall supply information describing the System where such Records might be maintained as set forth in a System of Record Notice.

(c) The NCPC PAO shall notify the Requester in writing within 20 Workdays of the Request whether a System contains Records pertaining to him/her unless the Records were compiled in reasonable anticipation of a civil action or proceeding or the Records are NCPC employee Records under the jurisdiction of the OPM. In both of the later cases the Request shall be denied. If the Request is denied because the Record(s) is/are under the jurisdiction of the OPM, the response shall advise the Requester to contact OPM. If the PAO denies the Request, the response shall state the reason for the denial and advise the Requester of the right to appeal the decision within 60 days of the date of the letter denying the request in accordance with the requirements set forth in § 603.16.

§ 603.13 Requests for access to Records.

(a) An Individual seeking access to Records about himself/herself shall do so by appearing in person at NCPC's official place of business or by written correspondence to the NCPC Privacy Act Officer. In-person requests shall be by appointment only with the Privacy Act Officer on a Workday during regular office hours. For written requests sent via the U.S. mail, the Request shall be directed to the Privacy Act Officer at NCPC's official address listed at *www.ncpc.gov.* If sent via email or facsimile, the request shall be directed to the email address or facsimile number indicated on the NCPC Web site. To expedite internal handling of Privacy Act Requests, the words Privacy Act Request shall appear prominently on the envelop or the subject line of an email or facsimile cover sheet.

(b) The Request shall:

(1) State the Request is made pursuant to the Privacy Act;

(2) Describe the requested Records in sufficient detail to enable their location including, without limitation, the dates the Records were compiled and the name or identifying number of each System of Record in which they are kept as identified in the list of NCPC's SORNs published on its Web site; and

(3) State pursuant to the fee schedule in set forth in § 603.17 a willingness to pay all fees associated with the Privacy Act Request or the maximum fee the Requester is willing to pay.

(c) The NCPC shall require identification as follows before releasing Records to an Individual:

(1) An Individual Requesting Privacy Act Records in person shall present a valid, photographic form of identification such as a driver's license, employee identification card, or passport that renders it possible for the PAO to verify that the Individual is the same Individual as contained in the requested Records.

(2) An Individual Requesting Privacy Act Records by mail shall state their full name, address and date of birth in their correspondence. The Request must be signed and the signature must either be notarized or submitted with a statement signed and dated as follows: I declare under penalty of perjury that the foregoing facts establishing my identification are true and correct.

(d) The PAO shall determine within 20 Workdays whether to grant or deny an Individual's Request for Access to the requested Record(s) and notify the Individual in writing accordingly. The PAO's response shall state his/her determination and the reasons therefor. If the Request is denied because the Record(s) is/are under the jurisdiction of the OPM, the response shall advise the Requester to contact OPM. In the case of an Adverse Determination, the written notification shall advise the Individual of his/her right to appeal the Adverse Determination in accordance with the requirements of § 603.16.

§ 603.14 Requests for Amendment or Correction of Records.

(a) An Individual seeking to amend or correct a Record pertaining to him/her that he/she believes to be inaccurate, irrelevant, untimely or incomplete shall submit a written request to the PAO at the address listed on NCPC's official Web site *www.ncpc.gov.* If sent via email or facsimile, the Request shall be directed to the email address or facsimile number indicated on the NCPC Web site. To expedite internal handling, the words Privacy Act Request shall appear prominently on the envelop or the subject line of an email or facsimile cover sheet.

(b) The Request shall:

(1) State the Request is made pursuant to the Privacy Act;

(2) Describe the requested Record in sufficient detail to enable its location

including, without limitation, the dates the Records was compiled and the name or identifying number of the System of Record in which the Record is kept as identified in the list of NCPC's SORNs published on its Web site;

(3) State in detail the reasons why the Record, or objectionable portion(s) thereof, is/are not accurate, relevant, timely or complete.

(4) Include copies of documents or evidence relied upon in support of the Request for Amendment or Correction; and

(5) State specifically, and in detail, the changes sought to the Record, and if the changes include rewriting the Record, or portions thereof, or adding new language, the Individual shall propose specific language to implement the requested changes.

(c) A request to Amend or Correct a Record shall be submitted only if the Requester has previously requested and been granted access to the Record and has inspected or been given a copy of the Record.

(d) The PAO shall render a decision within 20 Workdays. If the Request for an Amendment or Correction fails to meet the requirements of paragraphs (b)(1)–(5) of this section, the PAO shall advise the Individual of the deficiency and advise what additional information is required to act upon the Request. The timeframe for a decision on the Request shall be tolled (stopped) during the pendency of a request for additional information and shall resume when the additional information is received. If the Requester fails to submit the requested additional information within a reasonable time, the PAO shall reject the Request.

(e) The PAO's decision on a Request for Amendment or Correction shall be in writing and state the basis for the decision. If the Request is denied because the Record(s) is/are under the jurisdiction of the OPM, the response shall advise the Requester to contact OPM. In the event of an Adverse Determination, the written notification shall advise the Individual of his/her right to appeal the Adverse Determination in accordance with the requirements of § 603.16.

(f) If the PAO approves the Request for Amendment or Correction, the PAO shall ensure that subject Record is amended or corrected, in whole or in part. If the PAO denies the Request for Amendment or Correction, a notation of dispute shall be noted on the Record. If an accounting of disclosure has been made pursuant to § 603.11, the PAO shall advise all previous recipients of the Record that an amendment or correction or notation of dispute has been made and, if applicable, the substance of the change.

§ 603.15 Requests for Accounting of Record disclosures.

(a) An Individual seeking information regarding an accounting of disclosure of a Record pertaining to him/her made in accordance with § 603.11 shall submit a written request to the PAO at the address listed on NCPC's official Web site *www.ncpc.gov.* If sent via email or facsimile, the Request shall be directed to the email address or facsimile number indicated on the NCPC Web site. To expedite internal handling, the words Privacy Act Request shall appear prominently on the envelop or the subject line of an email or facsimile cover sheet.

(b) The Request shall:

(1) State the Request is made pursuant to the Privacy Act; and

(2) Describe the requested Record in sufficient detail to determine whether it is or is not contained in an accounting of disclosure.

(c) The NCPC PAO shall notify the Requester in writing within 20 Workdays of the Request and advise if the Record was included in an accounting of disclosure. In the event of a disclosure, the response shall include the date, nature, and purpose of the disclosure and the name and address of the person or agency to whom the disclosure was made. If the Request is denied because the Record(s) is/are under the jurisdiction of the OPM, the response shall advise the Requester to contact OPM. In the event of an Adverse Determination, the written notification shall advise the Individual of his/her right to appeal the Adverse Determination in accordance with the requirements of § 603.16.

§ 603.16 Appeals of Adverse Determinations.

(a) Except for appeals pursuant to paragraph (d) of this section, an appeal of an Adverse Determination shall be made in writing addressed to the Chairman (Chairman) of the National Capital Planning Commission at the address listed on NCPC's official Web site *www.ncpc.gov.* If sent via email or facsimile, the Request shall be directed to the email address or facsimile number indicated on the NCPC Web site. To expedite internal handling, the words Privacy Act Request shall appear prominently on the envelop or the subject line of an email or facsimile cover sheet. An appeal of an Adverse Determination shall be made within 30 Workdays of the date of the decision.

(b) An appeal of an Adverse Determination shall include a statement of the legal, factual or other basis for the Requester's objection to an Adverse Determination; a daytime phone number or email where the Requester can be reached if the Chairman requires additional information or clarification regarding the appeal; copies of the initial request and the PAO's written response; and for an Adverse Determination regarding a fee waiver, a demonstration of compliance with part 602 of this chapter.

(c) The Chairman shall respond to an appeal of an Adverse Determination in writing within 20 Workdays of receipt of the appeal. If the Chairman grants the appeal, the Chairman shall notify the Requester, and the NCPC shall take prompt action to respond affirmatively to the original Request upon receipt of any fees that may be required. If the Chairman denies the appeal, the letter shall state the reason(s) for the denial, a statement that the decision is final, and advise the Requester of the right to seek judicial review of the denial in the District Court of the United States in either the district in which the Requester resides, the district in which the Requester has his/her principal place of business or the District of Columbia.

(d) The appeal of an Adverse Determination based on OPM jurisdiction of the Records shall be made to OPM pursuant to 5 CFR 297.306.

(e) The NCPC shall not act on an appeal of an Adverse Determination if the underlying Request becomes the subject of litigation.

(f) A party seeking court review of an Adverse Determination must first appeal the Adverse Determination under this section.

§ 603.17 Fees.

(a) The NCPC shall charge for the duplication of Records under this subpart in accordance with the schedule of fees set forth in part 602 of this chapter. The NCPC shall not charge duplication fees when the Requester asks to inspect the Records personally but is provided copies at the discretion of the agency.

(b) The NCPC shall not charge any fees for the search for or review of Records requested by an Individual.

§ 603.18 Privacy Impact Assessments.

(a) Consistent with the requirements of the E-Government Act and OMB Memorandum M–03–22, the NCPC shall conduct a PIA before:

(1) Developing or procuring IT systems or projects that collect, maintain, or disseminate IIF; or

(2) Installing a new collection of information that will be collected, maintained, or disseminated using IT and includes IIF for 10 or more persons (excluding agencies, instrumentalities or employees of the federal government).

(b) The PIA shall be prepared through the coordinated effort of the NCPC's privacy Officers (SAOP, PAO), Division Directors, CIO, and IT staff.

(c) As a general rule, the level of detail and content of a PIA shall be commensurate with the nature of the information to be collected and the size and complexity of the IT system involved. Specifically, a PIA shall analyze and describe:

(1) The information to be collected;

(2) The reason the information is being collected;

(3) The intended use for the information;

(4) The identity of those with whom the information will be shared;

(5) The opportunities Individuals have to decline to provide the information or to consent to particular uses and how to consent;

(6) The manner in which the information will be secured; and

(7) The extent to which the system of records is being created under the Privacy Act.

(d) In addition to the information specified in paragraphs (b)(1)–(7) of this section, the PIA must also identify the choices NCPC made regarding an IT system or collection of information as result of preparing the PIA.

(e) The CCB shall verify that a PIA has been prepared prior to approving a request to develop or procure information technology that collects, maintains, or disseminates Information in Identifiable Form.

(f) The SAOP shall approve and sign the NCPC's PIA. If the SAOP is the Contracting Officer for the IT system that necessitated preparation of the PIA, the Executive Director shall approve and sign the PIA.

(g) Following approval of the PIA, the NCPC shall post the PIA document on the NCPC Web site located at *www.ncpc.gov.*

Dated: September 14, 2017.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2017–19996 Filed 9–19–17; 8:45 am]

BILLING CODE 7520–01–P

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