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Contents

Federal Register

Vol. 82, No. 235

Friday, December 8, 2017

Agriculture Department
See Farm Service Agency
See Food and Nutrition Service

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57984–57986

Chemical Safety and Hazard Investigation Board
RULES
Freedom of Information Act Program, 57875–57876

Children and Families Administration
PROPOSED RULES
CLASS Condition of the Head Start Designation Renewal System, 57905–57906
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Child Care and Development Fund Plan for States/Territories for FFY 2019–2021, 57986

Coast Guard
RULES
Drawbridge Operations:
Middle River, between Bacon Island and Lower Jones Tract, CA, 57825
Safety Zones:
Ohio River, Ironton, OH, 57828–57830
Sector Key West COTP Zone Post Storm Recovery, Atlantic Ocean, FL, 57826–57828

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57949

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement List; Additions and Deletions, 57956–57959

Defense Acquisition Regulations System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57959–57960

Defense Department
See Defense Acquisition Regulations System
RULES
Military Commissions, 57825
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57962–57963
Arms Sales, 57960–57968

Drug Enforcement Administration
NOTICES
Manufacturers of Controlled Substances; Applications:
Janssen Pharmaceutical, Inc., 58027

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
AK; Updates to Materials Incorporated by Reference, 57836–57848
Delaware; Reasonably Available Control Technology State Implementation Plan Under the 2008 Ozone National Ambient Air Quality Standard, 57849–57853
District of Columbia; Interstate Transport Requirements for the 2010 1-Hour Sulfur Dioxide Standard; Withdrawal of Direct Final Rule, 57835–57836
Illinois; Redesignation of the Chicago and Granite City Areas to Attainment of the 2008 Lead Standard; Withdrawal of Direct Final Rule, 57853
Illinois; Regional Haze Progress Report; Withdrawal of Direct Final Rule, 57836
Michigan; Regional Haze Progress Report; Withdrawal of Direct Final Rule, 57835
Minnesota; Regional Haze Progress Report; Withdrawal of Direct Final Rule, 57848
Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standard; Withdrawal of Direct Final Rule, 57848
Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standard; Withdrawal of Direct Final Rule, 57848–57849
Ohio; Redesignation of the Fulton County Area to Attainment of the 2008 Lead Standard; Withdrawal of Direct Final Rule, 57854
Wisconsin; Regional Haze Progress Report; Withdrawal of Direct Final Rule, 57836
Pesticide Tolerances:
Indoxacarb, 57860–57866
Sedaxane, 57867–57872
Ziram, 57854–57860
Tolerance Exemptions:
Bacillus subtilis strain BU1814, 57872–57874
Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products; Withdrawal of Direct Final Rule, 57874–57875
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Redesignation of the Illinois portion of the St. Louis-St. Charles-Farmington, Missouri-Illinois Area to Attainment of the 2008 Ozone Standard, 57892–57905
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Light-Duty In-Use Vehicle Testing Program, 57975–57976
Recordkeeping and Reporting for the Renewable Fuel Standard Program, 57973–57974

Certain New Chemicals or Significant New Uses:
Statements of Findings for August and September 2017, 57970–57971
Cross-Media Electronic Reporting:
Authorized Program Revision Approval, State of West Virginia, 57975
Environmental Impact Statements; Availability, etc., 57974–57975
Federal Agency Hazardous Waste Compliance Docket, 57976–57981
Pesticide Emergency Exemptions:
Agency Decisions and State and Federal Agency Crisis Declarations, 57971–57973
Public Water System Supervision Program Revision for Hawaii, 57981–57982

Farm Credit System Insurance Corporation
NOTICES
Meetings:
Farm Credit System Insurance Corporation Board, 57982

Farm Service Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Emergency Conservation Program and Biomass Crop Assistance Program, 57947

Federal Aviation Administration
PROPOSED RULES
Class E Airspace; Amendments:
Massena, NY, 57888–57889

Federal Communications Commission
RULES
Elimination of Main Studio Rule, 57876–57884

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 57968–57969
Environmental Impact Statements; Availability, etc.:
Rugraw, LLC; Lassen Lodge Hydroelectric Project, 57969–57970

Federal Register Office
NOTICES
Publication Procedures for Federal Register Documents During a Funding Hiatus, 58028

Federal Reserve System
PROPOSED RULES
Credit by Federal Reserve Banks; Extensions, 57886–57888

Federal Trade Commission
RULES
Enforcement Policy Statement Regarding the Applicability of the Children's Online Privacy Protection Act Rule to the Collection and Use of Voice Recordings, 58076–58077
PROPOSED RULES
Contact Lens Marketplace and Analyzing Proposed Changes to Contact Lens Rule:
Public Workshop, 57889–57891
NOTICES
Proposed Consent Agreements:
Cowboy AG LLC, 57982–57984

Fish and Wildlife Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Depredation Orders, 58022–58024
Endangered and Threatened Species:
Issuance of Recovery Permits and Interstate Commerce Permits, 58014–58022

Food and Drug Administration
NOTICES
Guidance:
Abbreviated New Drug Applications for Certain Highly Purified Synthetic Peptide Drug Products That Refer to Listed Drugs of Recombinant Deoxyribonucleic Acid Origin, 58004–58005
Changes to Existing Medical Software Policies Resulting from the 21st Century Cures Act, 57991–57993
Clinical and Patient Decision Support Software, 57987–57988
Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments, 57993–57994
Software as a Medical Device—Clinical Evaluation, 57994–57996
Meetings:
Fostering Digital Health Innovation: Developing the Software Precertification Program; Public Workshop, 57988–57990
Oncology Center of Excellence Listening Session, 58003–58004
Prescription Drug User Fee Act VI Commitment to Assess Current Practices of the Food and Drug Administration and Sponsors in Communicating During Investigational New Drug Development; Establishment of a Public Docket, 57990–57991
Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Requirements and Commitments, 57996–58003

Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Supplemental Nutrition Assistance Program Pre-Screening Tool, 57948–57949

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection
See U.S. Immigration and Customs Enforcement

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Evaluation of the HUD-DOJ Pay for Success Re-Entry Permanent Supportive Housing Demonstration, 58013–58014
Family Self-Sufficiency Program Demonstration, 58012–58013
Requirements for Single Family Mortgage Instruments, 58011–58012

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Aluminum Extrusions from the People's Republic of China, 57951–57952
Monosodium Glutamate from the People's Republic of China, 57949–57951
Determinations of Sales at Less Than Fair Value:
Biodiesel from Argentina and Indonesia, 57952–57953

International Trade Commission
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Common Alloy Aluminum Sheet from China, 58025–58026
Investigations; Determinations, Modifications, and Rulings, etc.:
Large Residential Washers, 58026–58027

Justice Department
See Drug Enforcement Administration

Land Management Bureau
RULES
Waste Prevention, Production Subject to Royalties, and Resource Conservation:
Delay and Suspension of Certain Requirements, 58050–58073

National Archives and Records Administration
See Federal Register Office

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Submission for Formative Research, Pre-testing, Stakeholder Measures and Advocate Forms at National Cancer Institute, 58006–58007
Prospective Grants of Exclusive Patent Licenses:
N-Acetyl Mannosamine as a Therapeutic Agent, 58007–58008
Requests for Information:
Office of Disease Prevention Strategic Plan for Fiscal Years 2019 - 2023, 58005–58006

National Oceanic and Atmospheric Administration
RULES
Atlantic Highly Migratory Species:
Atlantic Bluefin Tuna Fisheries, 57885
PROPOSED RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Bering Sea and Aleutian Islands; 2018 and 2019 Harvest Specifications for Groundfish, 57906–57924
Fisheries of the Exclusive Economic Zone off Alaska:
Gulf of Alaska; 2018 and 2019 Harvest Specifications for Groundfish, 57924–57946
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57953–57955
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Economic Impacts of Diving and Snorkeling Expenditures in Hawaii, 57954
Endangered and Threatened Species:
Initiation of a 5-Year Review for the Endangered Western Distinct Population Segment of Steller Sea Lion, 57955–57956
Permits:
Endangered Species; File Nos. 21198 and 21434, 57954–57955

National Park Service
NOTICES
National Register of Historic Places:
Pending Nominations and Related Actions, 58024–58025

Nuclear Regulatory Commission
RULES
List of Approved Spent Fuel Storage Casks:
TN Americas LLC, Standardized NUHOMS Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewal of Initial Certificate and Amendment Nos. 1 Through 11 and 13, Revision 1, and 14, 57819–57821
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
U.S. Nuclear Regulatory Commission Acquisition Regulation, 58030
Exemptions and Combined Licenses; Amendments:
Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 3 and 4; Clarification of Protection and Safety Monitoring System Interdivisional Cables in Auxiliary Building Fire Areas, 58028–58030

Pipeline and Hazardous Materials Safety Administration
NOTICES
Pipeline Safety:
Random Drug Testing Rate; Contractor Management Information System Reporting; and Obtaining Drug and Alcohol Management Information System Sign-In Information, 58047
Underground Natural Gas Storage Facility User Fee, 58045–58046

Presidential Documents
PROCLAMATIONS
Bears Ears National Monument; Modification (Proc. 9681), 58079–58087
Grand Staircase-Escalante National Monument; Modification (Proc. 9682), 58089–58096

Securities and Exchange Commission
NOTICES
Applications:
CBOE Vest Financial, LLC, et al, 58030–58032
Self-Regulatory Organizations; Proposed Rule Changes:
ICE Clear Credit LLC, 58034–58035
Investors Exchange LLC, 58039–58042
Nasdaq BX, Inc., 58042–58045
New York Stock Exchange LLC, 58032–58034
NYSE American LLC, 58036–58039

Surface Transportation Board
NOTICES
Abandonment Exemptions:
BNSF Railway Co. in Benton County, MN, 58045

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

Treasury Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Survey of U.S. Ownership of Foreign Securities, 58047–58048

U.S. Customs and Border Protection
RULES
Civil Monetary Penalty Adjustments for Inflation, 57821–57825
NOTICES
Delay of Transition of the Generating, Transmitting and Updating of Daily and Monthly Statements from the Automated Commercial System to the Automated Commercial Environment, 58010–58011
Revenue Modernization:
Mobile Collections and Receipt Pilot, 58008–58010

U.S. Immigration and Customs Enforcement
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58011

Veterans Affairs Department
RULES
Extra-Schedular Evaluations for Individual Disabilities, 57830–57835

Separate Parts In This Issue

Part II
Interior Department, Land Management Bureau, 58050–58073

Part III
Federal Trade Commission, 58076–58077

Part IV
Presidential Documents, 58079–58087, 58089–58096

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

6920 (Amended by Proc. 9682) 58089
9558 (Amended by Proc. 9681) 58081
9681.....58081
9682.....58089

10 CFR

72.....57819

12 CFR

Proposed Rules:

201.....57886

14 CFR

Proposed Rules:

71.....57888

16 CFR

312.....58076

Proposed Rules:

315.....57889

19 CFR

4.....57821

32 CFR

9.....57825
10.....57825
11.....57825
12.....57825
13.....57825
14.....57825
15.....57825
16.....57825
17.....57825

33 CFR

117.....57825
165 (2 documents) 57826, 57828

38 CFR

3.....57830

40 CFR

52 (11 documents) 57835, 57836, 57848, 57849, 57853, 57854
81 (2 documents) 57853, 57854
180 (4 documents) 57854, 57860, 57867, 57872
770.....57874
1601.....57875

Proposed Rules:

52.....57892
81.....57892

43 CFR

3160.....58050
3170.....58050

45 CFR

Proposed Rules:

1304.....57905

47 CFR

1.....57876
73.....57876

50 CFR

635.....57885

Proposed Rules:

679 (2 documents) 57906, 57924

Rules and Regulations

Federal Register

Vol. 82, No. 235

Friday, December 8, 2017

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

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2017–0138]

RIN 3150–AK05

List of Approved Spent Fuel Storage Casks: TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewal of Initial Certificate and Amendment Nos. 1 Through 11 and 13, Revision 1, and 14

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of December 11, 2017, for the direct final rule that was published in the **Federal Register** on September 27, 2017. This direct final rule amended the NRC's spent fuel storage regulations by revising the Standardized NUHOMS® Horizontal Modular Storage System (NUHOMS® System) listing within the ''List of approved spent fuel storage casks'' to renew, for an additional 40-year period, the initial certificate and Amendment Nos. 1 through 11 and 13, Revision 1, and Amendment No. 14 of Certificate of Compliance (CoC) No. 1004. These changes require, among other things, that all future amendments and revisions to this CoC include evaluations of the impacts to aging management activities (*i.e.,* time-limited aging analyses (TLAAs) and aging management programs (AMPs)) to ensure that they remain adequate to timely identify any changes to spent fuel storage cask systems, structures, and components (SSCs) within the scope of the renewal.

DATES: *Effective date:* The effective date of December 11, 2017, for the direct final rule published September 27, 2017 (82 FR 44879), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2017–0138 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0138. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
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- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Christian Jacobs, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–6825; email: *Christian.Jacobs@nrc.gov,* or Robert D. MacDougall, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–5175; email: *Robert.MacDougall@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

On September 27, 2017 (82 FR 44879), the NRC published a direct final rule amending its spent fuel storage regulations in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) by revising the NUHOMS® System listing within the ''List of approved spent fuel storage casks'' to renew, for an additional 40-year period, the initial certificate and Amendment Nos. 1 through 11 and 13, Revision 1, and Amendment No. 14 of CoC No. 1004. These changes require, among other things, that all future amendments and revisions to this CoC include evaluations of impacts on TLAAs and AMPs to ensure that they remain adequate to timely identify any changes to spent fuel storage cask SSCs within the scope of the renewal.

II. Public Comments on the Companion Proposed Rule

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on December 11, 2017. The NRC received one comment submission on the companion proposed rule (82 FR 44971). An electronic copy of this submission can be obtained from the Federal Rulemaking Web site, *http://www.regulations.gov,* by searching for Docket ID NRC–2017–0138. The comment submission also is available in ADAMS under Accession No. ML17303A026. For the reasons discussed in more detail in Section III, ''Public Comment Analysis,'' of this document, none of the comments contained in the submission are considered significant adverse comments.

III. Public Comment Analysis

The NRC received one comment submission on the proposed rule from FirstEnergy Nuclear Operating Company (FENOC). The submission contained three comments styled as ''comment/questions.'' As explained in the September 27, 2017, direct final rule, the NRC would withdraw the direct final rule only if it received a ''significant adverse comment.'' This is a comment where the commenter explains why the rule would be inappropriate, challenges its underlying premise or approach, or shows why it would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition; or

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or technical specifications (TSs).

In this instance, the NRC determined that none of the comments submitted on the proposed rule are significant adverse comments. The comments either were already addressed by the NRC staff's safety evaluation report (SER) (ADAMS Accession No. ML17131A121), or did not oppose the rule. The NRC has not made any changes to the direct final rule as a result of the public comments. However, the NRC is taking this opportunity to respond to the comments in an effort to clarify information about the direct final rule. The comments and the NRC's responses follow.

Comment 1

The commenter questioned why the proposed renewal of CoC No. 1004 includes a timeframe of 180 days for each general licensee (GL) to establish and implement its AMP procedures, which is shorter than the timeframe of 300 days that was granted for the renewal of CoC No. 1007. The commenter stated that the 180-day implementation period poses a hardship upon GLs with older spent fuel storage systems.

NRC Response

This comment did not raise an issue that was previously unaddressed by the NRC staff. During its review of the renewal application for CoC No. 1004, the NRC staff considered the appropriate timeframe for implementation of the AMP procedures. As stated in the SER, ''[t]he timeframe [of 180 days] in the condition is to ensure operating procedures are developed in a timely manner and is consistent with conditions placed in specific licenses that have been renewed.'' Specifically, the 180-day timeframe was successfully used for the renewals of the specific licenses under 10 CFR part 72 for the Prairie Island and Calvert Cliffs Independent Spent Fuel Storage Installations (ISFSIs).

The 180-day timeframe is also consistent with the guidance in NUREG–1927, Rev. 1, ''Standard Review Plan for Renewal of Spent Fuel Dry Cask Storage System Licenses and Certificates of Compliance.'' The commenter points to a statement in the NUREG that ''the development of the infrastructure for AMP implementation generally should be no later than one year,'' from the date of renewal; however, this does not preclude a shorter timeframe. The cask vendor, TN Americas LLC (TN), is preparing the AMP procedures for the GLs as an update to TN's Final Safety Analysis Report, and plans to provide these procedures within 90 days after the effective date of the renewal. This will allow at least an additional 90 days for the affected GLs to implement the procedures. Accordingly, the comment has not caused the NRC to reevaluate its position that a timeframe of 180 days is sufficient for AMP implementation.

The comment questions why the AMP implementation timeframe for the renewed NUHOMS® CoC is shorter than that for the renewal of CoC No. 1007 for the EnergySolutions™ Corporation's VSC–24 Ventilated Storage Cask System (82 FR 31433). During the NRC's review of the CoC No. 1007 renewal application, the cask vendor requested that the NRC consider an implementation timeframe of 300 days instead of 180 days after the effective date of the renewal. In that case, the NRC determined that the additional time for implementation was reasonable because CoC No. 1007 was the first CoC to go through the CoC renewal process for GLs. During its review of the renewal application for CoC No. 1004, the NRC staff was aware that the renewed CoC No. 1007, as the first-of-its-kind GL CoC renewal, included more time for AMP implementation. The staff determined that the special circumstances considered for CoC No. 1007 were not present for CoC No. 1004. Accordingly, this comment does not raise a relevant issue that was not previously addressed or considered by the NRC staff.

This comment does not meet the criteria for consideration as a significant adverse comment. The comment did not cause the NRC staff to reevaluate or reconsider its position or conduct additional analysis. Nor did the comment cause the NRC staff to make any change to the rule, CoC, or TSs. To the extent that the comment can be interpreted as requesting a change to the rule, *i.e.,* a longer timeframe for implementation of the AMP procedures, the comment does not show that the rule would be ineffective or unacceptable without incorporation of the change.

Comment 2

The commenter questioned whether the words ''implement these written procedures within 180 days'' mean that all required AMP inspections must be performed and the results reported within 180 days.

NRC Response

The answer to the commenter's question is no. Implementing the written procedures does not mean that an affected GL must perform all the SSC inspections required by its AMP and report the results of its inspections within the 180-day implementation period.

This comment does not meet the criteria for consideration as a significant adverse comment. The comment does not oppose the rule, and it did not cause the NRC staff to reevaluate or reconsider its position or conduct additional analysis. Nor did the comment cause the NRC staff to make any change to the rule, CoC, or TSs.

Comment 3

The commenter asked if the language in the revised TSs that ''[e]ach general licensee shall have a program to establish, implement, and maintain written procedures . . .'' applies to all GLs, including those that have only recently begun loading casks under CoC No. 1004. The commenter further asked if a site that began loading casks in 2014 would be required to have the ISFSI AMP procedure in place after 180 days.

NRC Response

Under the renewed CoC, each GL using NUHOMS® systems will be required to have a program with approved written AMP procedures in place within 180 days after the effective date of the renewal, or 180 days after the 20th anniversary of the loading of the first dry storage system at its site, whichever is later. Thus, if a particular ISFSI has casks that were loaded in 2014, these casks would not be required to have AMP procedures in place until 2034 at the earliest.

This comment does not meet the criteria for consideration as a significant adverse comment. The comment did not oppose the rule, and it did not cause the NRC staff to reevaluate or reconsider its position or conduct additional analysis. Nor did the comment cause the NRC staff to make any change to the rule, CoC, or TSs.

Therefore, because no significant adverse comments were received, this direct final rule will become effective as

scheduled on December 11, 2017. The final CoC, TS, and SER can be viewed in ADAMS under Accession No. ML17338A091.

Dated at Rockville, Maryland, this 5th day of December 2017.

For the Nuclear Regulatory Commission.

Cindy K. Bladey,

Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–26508 Filed 12–7–17; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 4

[CBP Dec. 17–20]

RIN 1651–AB15

Civil Monetary Penalty Adjustments for Inflation

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This rule amends U.S. Customs and Border Protection (CBP) regulations to adjust for inflation the amounts that CBP can assess as civil monetary penalties for the following three violations—transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel; towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel; and dealing in or using an empty stamped imported liquor container after it has already been used once. These adjustments are being made in in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) which was enacted on November 2, 2015. Other CBP civil penalty amounts were adjusted pursuant to this 2015 Act in previously published rule documents published in the **Federal Register** on July 1, 2016, and January 27, 2017, but the adjustments for these three civil penalties were inadvertently left out of those documents.

DATES: This rule is effective on December 8, 2017. The adjusted penalty amounts will be applicable for penalties assessed after December 8, 2017 if the associated violations occurred after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Millie Gleason, Office of Field Operations, U.S. Customs and Border Protection. Phone: (202) 325–4291.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74 section 701 (Nov. 2, 2015)) (2015 Act).[1] The 2015 Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) (1990 Inflation Adjustment Act) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through issuance of an interim final rule (IFR) and (2) make subsequent annual adjustments for inflation. Through the ''catch-up'' adjustment, agencies were required to adjust the maximum amounts of civil monetary penalties to more accurately reflect inflation rates. The 2015 Act directed the Office of Management and Budget (OMB) to issue guidance to agencies on implementing the initial ''catch-up'' adjustment. The 2015 Act required that agencies publish their IFRs in the **Federal Register** no later than July 1, 2016 and that the adjusted amounts were to take effect no later than August 1, 2016.

For the subsequent annual adjustments, the 2015 Act requires agencies to increase the penalty amounts by a cost-of-living adjustment. The 2015 Act directs OMB to provide guidance to agencies each year to assist agencies in making the annual adjustments. The 2015 Act requires agencies to make the annual adjustments no later than January 15 of each year and to publish the adjustments in the **Federal Register**.

The Department of Homeland Security (DHS) undertook a review of the civil penalties that DHS and its components administer to determine which penalties would need adjustments. On July 1, 2016, DHS published an IFR adjusting the civil monetary penalties with an initial ''catch-up'' adjustment, as required by the 2015 Act. *See* 81 FR 42987. DHS calculated the adjusted penalties based upon nondiscretionary provisions in the 2015 Act and upon guidance issued by OMB on February 24, 2016.[2] The adjusted penalties were effective for civil penalties assessed after August 1, 2016 (the effective date of the IFR) whose associated violations occurred after November 2, 2015 (the date of enactment of the 2015 Act).[3] On January 27, 2017, DHS published a final rule adopting as final the civil monetary penalty adjustment methodology from the IFR and making the 2017 annual inflation adjustment pursuant to the 2015 Act and upon guidance OMB issued to agencies on December 16, 2016.[4] *See* 82 FR 8571.

As discussed in Section II below, three civil monetary penalties assessed by CBP and subject to the 2015 Act were inadvertently omitted from these DHS rulemakings.

II. CBP Penalties

CBP assesses or enforces penalties under various titles of the Unites States Code (U.S.C.) and the Code of Federal Regulations (CFR). These penalties include civil monetary penalties for certain violations of title 8 of the CFR pursuant to the Immigration and Nationality Act of 1952,[5] as well as certain civil monetary penalties for customs violations for laws codified in title 19 of the U.S.C. and the CFR. CBP assesses many of the title 19 penalties under the Tariff Act of 1930, as amended, and as discussed in the IFR preamble at 81 FR 42987, the 2015 Act specifically exempts Tariff Act penalties from the inflation adjustment requirements in the 2015 Act. For that reason, DHS did not list those penalties in the tables of CBP penalty adjustments in the DHS rulemakings. There are also various other monetary penalties found throughout the U.S.C. and CFR which CBP may seek to issue or enforce but which were not included in the tables because they fall within the purview of

[1] The 2015 Act was enacted as part of the Bipartisan Budget Act of 2015, Public Law 114–74 (Nov. 2, 2015).

[2] OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, February 24, 2016. *https://obama whitehouse.archives.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf.*

[3] DHS published a correction to the IFR on August 23, 2016 to correct one amendatory instruction. *See* 81 FR 57442.

[4] OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. *https://obama whitehouse.archives.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf.*

[5] Public Law 82–414, as amended (INA). The INA contains provisions that impose penalties on persons, including carriers and aliens, who violate specified provisions of the INA. While CBP is responsible for enforcing various provisions of the INA and assessing penalties for violations of those provisions, all the penalty amounts CBP can assess for violations of the INA are set forth in one section of title 8 of the CFR—8 CFR 280.53. For a complete list of the INA sections for which penalties are assessed, in addition to a brief description of each violation, see the IFR preamble at 81 FR 42989–42990.

another Department or Agency for purposes of the 2015 Act.[6]

However, three non-Tariff Act penalties that are assessed by CBP were inadvertently omitted from the DHS rulemakings. The first is a penalty set forth at 19 U.S.C. 469, and not reflected in the CBP regulations, for dealing in or using already used empty stamped imported liquor containers. The other two penalties are set forth in title 46 of the U.S.C., 46 U.S.C. 55103 and 46 U.S.C. 55111 and reflected in the CBP regulations in 19 CFR part 4. Pursuant to 46 U.S.C. 55103(b) and 19 CFR 4.80(b)(2), CBP assesses penalties for transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel. Pursuant to 46 U.S.C. 55111(c) and 19 CFR 4.92, CBP assesses penalties for towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel.

This final rule adjusts these penalty amounts using the same civil monetary penalty adjustment methodology that DHS announced in the IFR (81 FR 42987) and finalized in the DHS final rule (82 FR 8571), and detailed below.

III. Inflation Adjustment Methodology Required by 2015 Act

A. Overview

The 2015 Act provides a new method for calculating inflation adjustments. The new method differs substantially from the methods that agencies used in the past when conducting inflation adjustments pursuant to the 1990 Inflation Adjustment Act. The new method is intended to more accurately reflect inflation. Previously, when agencies conducted adjustments to civil penalties, they did so under rules that required significant rounding of figures. For example, an agency would round a penalty increase that was greater than $1,000, but less than or equal to $10,000, to the nearest multiple of $1,000. While this allowed penalties to be kept at round numbers, it meant that agencies would often not increase penalties at all if the inflation factor was not large enough. Furthermore, increases to penalties were capped at 10 percent, which meant that longer periods without an inflation adjustment could cause a penalty to rapidly lose value in real terms. Over time, the formula used in the 1990 Inflation Adjustment Act calculations frequently caused penalties to lose value relative to actual inflation. The 2015 Act removed these rounding rules, and instead instructs agencies to round penalties to the nearest $1. While this creates penalty values that are no longer round numbers, it does ensure that agencies will increase penalties each year to a figure commensurate with the actual calculated inflation.

To better reflect the original impact of civil penalties, the 2015 Act ''resets'' the inflation calculations by excluding prior inflationary adjustments under the Inflation Adjustment Act. To do this, the 2015 Act requires agencies to identify, for each penalty, the year that Congress originally enacted the maximum penalty level/range of minimum and maximum penalty levels or the year that the agency last adjusted the penalty amount other than to pursuant to the Inflation Adjustment Act, and the corresponding penalty amount(s). The 2015 Act then requires agencies to perform an initial ''catch-up'' adjustment, using the original amounts of civil penalties as a baseline, so that the 2016 penalty levels are equal, in real terms, to the penalty amounts as they were originally established. The 2015 Act also requires agencies to make subsequent annual adjustments to increase the penalty amounts by a cost-of-living adjustment.

B. Catch-Up Adjustment

This section sets forth the initial ''catch-up'' adjustment for three civil monetary penalties assessed by CBP that were inadvertently omitted from the DHS rulemakings. The catch-up adjustments for these three penalties are listed in Table 1 below. This table shows how DHS would have initially increased the penalties pursuant to the 2015 Act. The table contains the following information:

- In the first column (penalty name), we provide a description of the penalty.
- In the second column (citation), we provide the statutory cite from the United States Code (U.S.C.) and the regulatory cite from the Code of Federal Regulations (CFR).
- In the third column (current penalty), we list the existing penalty in effect on November 2, 2015.
- In the fourth column (baseline penalty (year)), we provide the amount and year of the penalty as enacted by Congress or as last changed through a mechanism other than pursuant to the Inflation Adjustment Act, whichever is later.
- In the fifth column (2016 multiplier), we list the multiplier used to adjust the penalty pursuant to the initial OMB catch-up guidance. The multiplier is determined by the year of enactment or last adjustment of the penalty. The multiplier is based upon the Consumer Price Index (CPI–U) for the month of October 2015, not seasonally adjusted.
- In the sixth column (preliminary new penalty), we list the amount obtained by multiplying the Baseline Penalty from column 4 with the Multiplier from column 5. This amount will be the catch-up adjustment amount, if, in accordance with the 2015 Act, this level does not increase penalty levels by more than 150 percent of the corresponding levels in effect on November 2, 2015.
- In the seventh column (adjusted 2016 penalty), we provide the number for the penalty as it would have been adjusted for 2016. To derive this number, we compare the preliminary new penalty with the current penalty from column 3. The adjusted new penalty is the lesser of either the preliminary new penalty or an amount equal to 150 percent more than the current penalty.

TABLE 1—U.S. CUSTOMS AND BORDER PROTECTION CIVIL PENALTIES INITIAL CATCH-UP ADJUSTMENTS

Penalty name	Citation	Current penalty	Baseline penalty * (year)	2016 Multiplier **	Preliminary new penalty [2016 multiplier × baseline penalty]	Adjusted 2016 penalty [increase capped at 150% more than current penalty]
Penalty for dealing in or using empty stamped imported liquor containers.	19 U.S.C. 469 ..	$200	$200 (1879)	23.54832	$4,710	$500.

[6] For example, CBP may enforce the Clean Diamond Trade Act penalty set forth in 19 U.S.C. 3907, which falls within the purview of the Department of Treasury. *See* 31 CFR part 501, app. A.

TABLE 1—U.S. CUSTOMS AND BORDER PROTECTION CIVIL PENALTIES INITIAL CATCH-UP ADJUSTMENTS—Continued

Penalty name	Citation	Current penalty	Baseline penalty * (year)	2016 Multiplier **	Preliminary new penalty [2016 multiplier × baseline penalty]	Adjusted 2016 penalty [increase capped at 150% more than current penalty]
Penalty for transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55103(b) 19 CFR 4.80(b)(2).	$300	$200 (1898)	23.54832	$4,710	$750.
Penalty for towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55111(c) 19 CFR 4.92.	$350–$1100, plus $60 per ton.	$250–$1000, plus $50 per ton (1940).	16.98843	$4,247–$16,988, plus $849 per ton.	$875–$2,750, plus $150 per ton.

* The amount of the penalty and the year when the penalty was established or last adjusted in statute or regulation other than pursuant to the Inflation Adjustment Act of 1990.
** OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A: 2016 Civil Monetary Penalty Catch-Up Adjustment Multiplier by Calendar Year, February 24, 2016. *https://obamawhitehouse.archives.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf*.

C. 2017 Adjustments

This final rule also makes the 2017 annual inflation adjustment pursuant to the 2015 Act and the guidance OMB issued to agencies on December 16, 2016.[7] Pursuant to 28 U.S.C. 2461 note sec. 6, as amended by the 2015 Act, the penalty amounts adjusted by this final rule will be applicable for penalties assessed after December 8, 2017 where the associated violation occurred after November 2, 2015 (*i.e.,* the date the 2015 Act was signed into law). Consistent with OMB guidance, the 2015 Act does not change previously assessed penalties that the agency is actively collecting or has collected.

In Table 2 below, we show: (1) The civil penalty (or penalties) name, (2) the penalty statutory and/or regulatory citation, (3) the penalty amount as it would have been adjusted in 2016 (see Table 1), (4) the cost-of-living adjustment multiplier for 2017 that OMB provided in its December 16, 2016 guidance, and (5) the new 2017 adjusted penalty.

Additionally, we have made conforming edits to the regulatory text for the new adjusted penalty amounts in 19 CFR 4.80(b)(2) and 19 CFR 4.92. Because the 19 U.S.C. 469 penalty is not included in the CFR, there are no conforming edits to be made to the regulatory text. However, this penalty is listed in Table 2 for informational purposes.

TABLE 2—U.S. CUSTOMS AND BORDER PROTECTION CIVIL PENALTIES 2017 ADJUSTMENTS

Penalty name	Citation	Adjusted 2016 penalty (see Table 1)	2017 Multiplier *	New penalty as adjusted by this final rule
Penalty for dealing in or using empty stamped imported liquor containers.	19 U.S.C. 469	$500	1.01636	$508.**
Penalty for transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55103(b) 19 CFR 4.80(b)(2).	$750	1.01636	$762.
Penalty for towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55111(c) 19 CFR 4.92.	$875–$2,750, plus $150 per ton.	1.01636	$889–$2,795, plus $152 per ton.

* OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. *https://obamawhitehouse.archives.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf*.
** No applicable conforming edit to regulatory text.

IV. Administrative Procedure Act

The Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the **Federal Register** (5 U.S.C. 553(b)) and to provide interested persons with the opportunity to submit comments (5 U.S.C. 553(c)). The APA also requires agencies to provide a delayed effective date (of not less than 30 days) for substantive rules. 5 U.S.C. 553(d). The 2015 Act, however, specifically instructed that agencies are to make the required annual adjustments notwithstanding section 553 of title 5, United States Code.

DHS is promulgating this final rule to ensure that the amount of civil penalties that CBP assesses or enforces that was inadvertently omitted from the DHS rulemakings reflects the statutorily mandated ranges as adjusted for inflation. The 2015 Act provides a clear nondiscretionary formula for adjustment of the civil penalties; DHS and CBP have been charged only with performing ministerial computations to determine the amounts of adjustments for inflation to civil monetary penalties. Additionally, although the 2015 Act requires publication of an IFR to take effect not later than August 1, 2016, that date has passed and publishing a separate IFR to account for these inadvertently omitted penalty adjustments would cause unnecessary delay. Further, this final rule merely applies the adjustment methodology

[7] See footnote 4.

that DHS provided for public comment in the 2016 IFR and finalized in the 2017 final rule. DHS finds that it is unnecessary to seek further public comment regarding the application of the finalized methodology to these three penalties. For these reasons, and as specified in the 2015 Act, DHS finds good cause to promulgate these CBP civil monetary penalty adjustments as a final rule and finds that the prior public notice-and-comment procedures and delayed effective date requirements of the APA are unnecessary and do not apply to this rule.

As described in Section I above, the 2015 Act requires agencies to make annual adjustments to civil monetary penalties no later than January 15 of each year and to publish the adjustments in the **Federal Register**. DHS will make future annual inflation adjustments required pursuant to the 2015 Act by final rule notwithstanding the notice-and-comment and delayed effective date requirements of the APA, as required by the 2015 Act. For future annual adjustments, DHS will update the penalty amounts by applying a cost-of-living adjustment multiplier pursuant to OMB guidance. DHS will publish a final rule that provides a table with the adjusted penalty amounts and that updates the numbers in the regulatory text accordingly. DHS will incorporate the three CBP penalties adjusted in this final rule into such future annual adjustment final rules.

V. Regulatory Analyses

A. Executive Orders 12866, 13563, and 13771

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.''

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 it is not subject to 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) at Q2.

This final rule makes nondiscretionary adjustments to existing civil monetary penalties in accordance with the 2015 Act and OMB guidance.[8] DHS therefore did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule. To the extent this final rule increases civil monetary penalties, it would result in an increase in transfers from persons or entities assessed a civil monetary penalty to the government.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act applies only to rules for which an agency publishes a notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). See 5 U.S.C. 601–612. The Regulatory Flexibility Act does not apply to this final rule because a notice of proposed rulemaking was not required for the reasons stated above.

C. 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. This final rule will not result in such an expenditure.

D. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule, because this final rule does not trigger any new or revised recordkeeping or reporting.

VI. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, this document is signed by the Secretary of Homeland Security.

[8] See footnotes 2 and 4.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Exports, Freight, Harbors, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements, Vessels.

Amendments to the Regulations

For the reasons stated in the preamble, CBP amends 19 CFR part 4 as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

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

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

Sections 4.80, 4.80a, and 4.80b also issued under 19 U.S.C. 1706a; 28 U.S.C. 2461 note; 46 U.S.C. 12112, 12117, 12118, 50501–55106, 55107, 55108, 55110, 55114, 55115, 55116, 55117, 55119, 56101, 55121, 56101, 57109; Pub. L. 108–7, Division B, Title II, § 211;

* * * * *

Section 4.92 also issued under 28 U.S.C. 2461 note; 46 U.S.C. 55111;

* * * * *

■ 2. Revise § 4.80(b)(2) to read as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

* * * * *

(b) * * *

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is $300 for each passenger so transported and landed on or before November 2, 2015, and $762 for each passenger so transported and landed after November 2, 2015 (46 U.S.C. 55103, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015).

* * * * *

■ 3. Revise § 4.92 to read as follows:

§ 4.92 Towing.

No vessel other than a vessel documented for the coastwise trade, or which would be entitled to be so documented except for its tonnage (see § 4.80), may tow a vessel other than a vessel in distress between points in the U.S. embraced within the coastwise laws, or for any part of such towing (46 U.S.C. 55111). The penalties for violation of this provision occurring on or before November 2, 2015, are a fine of from $350 to $1100 against the owner or master of the towing vessel and a further penalty against the towing vessel of $60 per ton of the towed vessel. The penalties for violation of this provision occurring after November 2, 2015, are a

fine of from $889 to $2,795 against the owner or master of the towing vessel and a further penalty against the towing vessel of $152 per ton of the towed vessel (46 U.S.C. 55111, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015).

Dated: December 5, 2017.

Elaine C. Duke,

Acting Secretary of Homeland Security.

[FR Doc. 2017–26506 Filed 12–7–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 9, 10, 11, 12, 13, 14, 15, 16, and 17

[Docket ID: DOD–2017–OS–0062]

RIN 0790–AJ58

Military Commissions

AGENCY: Office of the General Counsel, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense is removing its regulations regarding procedures for the conduct of military commissions to try certain terror suspects for war crimes because the subchapter, which contains eleven parts, is outdated and no longer in force.

DATES: This rule is effective on December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Gerald Dziecichowicz at 703–693–9958.

SUPPLEMENTARY INFORMATION: On November 13, 2001, President George W. Bush issued the Military Order titled ''Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' which authorized the use of military commissions to try certain terror suspects for war crimes. Pursuant to section 4 of that order, the Secretary of Defense issued policies and procedures for the conduct of those proceedings, which were codified at 32 CFR chapter I, subchapter B. In 2006, the Supreme Court essentially invalidated that military commissions process. Congress subsequently passed several laws reshaping and reauthorizing the use of military commissions, which required the Secretary of Defense to issue new policies and procedures. These updated directives are publicly available and posted to a department Web site. Accordingly, this subchapter, which contains eleven parts, is outdated, no longer in force, and should be removed from the Code of Federal Regulations.

It has been determined that publication of this CFR subchapter removal for public comment is impracticable, unnecessary, and contrary to public interest because it is based on removing outdated policies and procedures.

As this repeal removes information that is now obsolete from the CFR, there is no cost savings to the public for the repeal of this subchapter.

List of Subjects in 32 CFR Parts 9, 10, 11, 12, 13, 14, 15, 16, and 17

Military law.

SUBCHAPTER B—[REMOVED AND RESERVED]

■ Accordingly, by the authority of 5 U.S.C. 301, title 32, subtitle A, chapter I of the Code of Federal Regulations is amended by removing and reserving subchapter B, consisting of parts 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, and 20.

Dated: December 4, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–26433 Filed 12–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1069]

Drawbridge Operation Regulation; Middle River, Between Bacon Island and Lower Jones Tract, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the San Joaquin County (Bacon Island Road) highway Drawbridge across the Middle River, mile 8.6, between Bacon Island and Lower Jones Tract, CA. The deviation is necessary to allow the bridge owner to make emergency structural repairs. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 6 a.m. on December 18, 2017 through 6 p.m. on December 22, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–1069, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

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

SUPPLEMENTARY INFORMATION: San Joaquin County Department of Public Works has requested a temporary change to the operation of the San Joaquin County (Bacon Island Road) highway Drawbridge over the Middle River, mile 8.6, between Bacon Island and Lower Jones Tract, CA. The drawbridge navigation span provides a vertical clearance of 8 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.171(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 6 a.m. on December 18, 2017 through 6 p.m. on December 22, 2017, to allow the bridge owner to make emergency structural repairs. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. In the event of an emergency the draw can open if at least 12 hours advance notice is given to the bridge operator. Old River can be used as an alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: December 4, 2017.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2017–26463 Filed 12–7–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–1067]

RIN 1625–AA00

Safety Zone; Sector Key West COTP Zone Post Storm Recovery, Atlantic Ocean, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule; request for comments.

SUMMARY: The Coast Guard has established a temporary safety zone for certain waters within the Sector Key West Captain of the Port (COTP) Zone. Vessels are prohibited from entering into, anchoring, loitering, or movement within a safety zone around salvage or pollution removal vessels in the Florida Keys. These temporary regulations are necessary for the safety of persons, vessels, and property due to the large volume of debris, sunken vessels and salvage operations associated with Hurricane Irma. We invite your comments on this rulemaking.

DATES: This rule is effective without actual notice from December 8, 2017 through February 1, 2018. For the purposes of enforcement, actual notice will be used from December 1, 2017 until December 8, 2017. Comments and related materials must be received by the Coast Guard on or before January 8, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–1067 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rulemaking, call or email Lieutenant Scott Ledee, Waterways Management Division Chief, Sector Key West, FL, U.S. Coast Guard; telephone (305) 292–8768, e-mail *SKWWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because insufficient time remains to publish an NPRM and to receive public comments, as Hurricane Irma has already caused significant damage to vessels and property in the Sector Key West COTP Zone leaving underwater debris and sunken vessels around the Florida Keys. The safety zone is necessary to provide for the safety of persons, vessels, and property from the hazards posed by sunken vessels and debris. For those reasons, it would be impracticable and contrary to the public interest to publish an NPRM.

On October 12, 2017, the Coast Guard published a temporary interim final rule, entitled ''Safety Zone; Sector Key West COTP Zone Post Storm Recovery, Atlantic Ocean, FL'' in the **Federal Register** (82 FR 473474) establishing a temporary safety zone around salvage or pollution removal vessels in the Florida Keys. The Coast Guard solicited for comments for this interim final rule, the comment period for this rule ended on November 13, 2017, no comments were received. The safety zone expires on December 1, 2017, but additional time is needed to complete the salvage and pollution recovery operations. This rule establishes a safety zone from December 1, 2017 to February 1, 2018 to ensure, to the extent practicable, that there continues to be protections for the safety of persons, vessels, and property due to the large volume of debris, sunken vessels and salvage operations associated with Hurricane Irma, which was unable to be completed during the original time frame. It would be impracticable and contrary to the public interest for the existing safety zone to lapse when the salvage and pollution recovery operations need to continue past the expiration date of the existing safety zone.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register.** Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential hazards associated with hurricane debris.

The Coast Guard is soliciting public comments on this temporary interim rule. Although we need to make this interim rule effective immediately, we will consider public comments and may issue a temporary final rule that will supersede this interim rule based on comments received.

III. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.* Documents mentioned in this rule as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

IV. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231 The COTP Key West has determined that potential hazards associated with salvage operations and hurricane debris will be a safety concern for persons, vessels, and property within the waters of the ports mentioned above. The COTP Key West has determined it is necessary establish a safety zone from December 1, 2017 until February 1,

2018, to protect persons, vessels, and property on the navigable waters within the safety zone while cleanup efforts are underway.

V. Discussion of the Rule

This rule establishes a temporary safety zone for certain waters within the Sector Key West Captain of the Port (COTP) Zone as salvage and pollution recovery cleanup efforts continue. Vessels are prohibited from entering into, anchoring, loitering, or movement within a safety zone around salvage or pollution removal vessels in the Florida Keys. These temporary regulations are necessary for the safety of persons, vessels, and property due to the large volume of debris, sunken vessels and salvage operations associated with Hurricane Irma.

The COTP Key West will continue to evaluate conditions in the waters in the vicinity of the Florida Keys and may stop enforcing this rule earlier if the conditions permit. The Coast Guard will provide notification of the safety zone to the local maritime community by Marine Safety Information Bulletins, Broadcast Notice to Mariners, and on-scene designated representatives.

VI. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the following reasons: The safety zone is of a small diameter around salvage and pollution recovery vessels and wreckage, and the Coast Guard will provide notice of the safety zones to the local maritime community by Marine Safety Information Bulletins, Broadcast Notice to Mariners, and designated on-scene representatives.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section VI.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone from which vessels are excluded. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your

message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T07–1067 to read as follows:

§ 165.T07–1067 Safety Zone; Sector Key West COTP Zone Post Storm Recovery, Atlantic Ocean, FL.

(a) *Location.* The following area is a safety zone: All waters within 100 yards of all salvage vessels and pollution recovery vessels operating within 1 nautical mile of land in the Captain of the Port (COTP) Key West.

(b) *Definition.* As used in this section, the term ''designated representative'' includes Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the COTP Key West in the enforcement of the safety zone.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the COTP Key West or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the COTP Key West by telephone at (305) 292–8727, or a designated representative via VHF–FM radio on channel 16 to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Key West or a designated representative.

(d) *Enforcement period.* This rule will be enforced from 8 a.m. on December 1, 2017, through 8 a.m. on February 1, 2018, unless sooner terminated by the COTP Key West.

Dated: December 1, 2017.

Jeffrey. A. Janszen,

Captain, U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2017–26462 Filed 12–7–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–1064]

RIN 1625–AA00

Safety Zone; Ohio River, Ironton, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters on the Ohio River from mile marker (MM) 326.5 to MM 327.5. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the demolition of the Ironton-Russell Bridge. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

DATES: This rule is effective without actual notice from December 8, 2017 through December 22, 2017. This rule will be enforced from December 8, 2017 through December 4, 2017, unless the demolition is postponed because of adverse weather, in which case this rule will be enforced from 10 a.m. to 3 p.m. on December 5, 2017, December 11–15, 2017, and December 18–22, 2017.

For the purposes of enforcement, actual notice will be used from December 4, 2017 until December 8, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–1064 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Robert Miller, Marine Safety Unit Huntington, U.S. Coast Guard; telephone 304–733–0198, email *STL-SMB-MSUHuntington-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

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

We must establish this safety zone by December 4, 2017 and lack sufficient time to provide responsible comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** Delaying the effective date to provide a full 30 days' notice is contrary to public interest because immediate action is needed to protect persons and vessels from safety hazards associated with the Ironton-Russell Bridge demolition.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the bridge demolition taking place on or over this section of the navigable waterway will be a safety concern for anyone within the area designated as the safety zone. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the bridge demolition.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 10 a.m. on December 4, 2017 through 3 p.m. on December 22, 2017 for all navigable waters of the Ohio River from mile marker (MM) 326.5 to MM 327.5, for the Ironton-Russell Bridge demolition in Ironton, OH. This

rule will be enforced on from 10 a.m. to 3 p.m. on December 4, 2017, unless the demolition is postponed because of adverse weather, in which case this rule will be enforced from 10 a.m. to 3 p.m. on December 5, 2017, December 11–15, 2017, and December 18–22, 2017.

All potential work delay dates are necessary due to inclement weather, river conditions or mechanical issues that could occur preventing the scheduled demolition on December 4, 2017. The waterway users have been briefed on the procedures to be taken in the event of inclement weather or mechanical issues, and are aware that the project dates may be changed. This safety zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the bridge demolition. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will not be able to safely transit through this safety zone, which will impact a small designated area of the Ohio River from MM 326.5 through MM 327.5 for five hours on December 4, 2017, during a time of year when vessel traffic is normally low. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only five hours that will prohibit entry on one day, with alternate work delay dates, that will prohibit entry within MM 326.5 through MM 327.5 on the Ohio River due to demolition project of the Ironton-Russell Bridge. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–1064 to read as follows:

§ 165.T08–1064 Safety zone; Ohio River, MM 326.5 through MM 327.5, Ironton, OH.

(a) *Location.* The following area is a safety zone: All waters of the Ohio River from mile marker (MM) 326.5 through MM 327.5.

(b) *Enforcement period.* This rule will be enforced 10 a.m. through 3 p.m. on December 4, 2017, unless the demolition is postponed because of adverse weather, in which case this rule will be enforced from 10 a.m. to 3 p.m. on December 5, 2017, December 11–15, 2017, and December 18–22, 2017.

(c) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP) Sector Ohio Valley in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or a designated representative.

(2) To seek permission to enter, contact the COTP or designated representative via radio on channel 16.

(3) All persons and vessels shall comply with the instruction of the COTP and designated on-scene personnel.

(e) *Information broadcasts.* The COTP or a designated representative will inform the Public through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts as appropriate of the enforcement period for each safety zone as well as any changes in the planned and published dates and times of enforcement.

Dated: December 4, 2017.

M.B. Zamperini,

Captain, U.S. Coast Guard, Captain of the Port, Sector Ohio Valley.

[FR Doc. 2017–26476 Filed 12–7–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AP48

Extra-Schedular Evaluations for Individual Disabilities

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its adjudication regulation pertaining to extra-schedular consideration of a service-connected disability in exceptional compensation cases. This rule clarifies that an extra-schedular evaluation is to be applied to an individual service-connected disability when the disability is so exceptional or unusual that it makes application of the regular rating schedule impractical. An extra-schedular evaluation may not be based on the combined effect of more than one service-connected disability. For the reasons set forth in the proposed rule and in this final rule, VA is adopting the proposed rule as final, with two changes, as explained below.

DATES:

Effective Date: This rule is effective January 8, 2018.

Applicability Date: The provisions of this final rule shall apply to all applications for benefits that are received by VA on or after January 8, 2018 or that are pending before VA, the United States Court of Appeals for Veterans Claims, or the United States Court of Appeals for the Federal Circuit (Federal Circuit) on January 8, 2018.

FOR FURTHER INFORMATION CONTACT: Nora Jimison, Policy Analyst, Regulations Staff (211D), Compensation Service, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: On April 20, 2016, VA published in the **Federal Register** (81 FR 23228) a proposed rule to amend its regulation at 38 CFR 3.321(b)(1) in order to clarify its long-standing interpretation that the regulation provides an extra-schedular evaluation for a single service-connected disability, and not for the combined effect of two or more service-connected disabilities. Section 501 of title 38, United States Code, provides VA with the authority to interpret its own regulations under its general rulemaking authority. *Menegassi* v. *Shinseki,* 638 F.3d 1379, 1382 (Fed. Cir. 2011). VA had already proposed to clarify section 3.321(b)(1) as part of a regulation rewrite project in 2013; however, a subsequent decision by the Federal Circuit held that section 3.321(b)(1) required VA to consider the combined effects of two or more service-connected disabilities when determining extra-schedular evaluations. *Johnson* v. *McDonald,* 762 F.3d 1362, 1365–66 (Fed. Cir. 2014), *rev'g* 26 Vet. App. 237 (2013). This decision conflicts with VA's longstanding interpretation of section 3.321(b)(1), and VA therefore decided to amend the regulation in a separate rulemaking to clarify its interpretation of the regulation.

Interested persons were invited to submit comments to the proposed rule on or before June 20, 2016, and 11 comments were received. Those comments have been organized according to topic in the discussion below.

I. Separation of Powers

A commenter stated that VA's rulemaking to overturn *Johnson* is a violation of the constitutional doctrines of separation of powers and due process. We disagree. ''A court's prior judicial construction of a statute trumps an agency construction . . . if the prior court decision holds that its construction follows from the unambiguous terms of the statute and thus leaves no room for agency discretion.'' *National Cable & Telecomms. Ass'n* v. *Brand X Internet Servs.,* 545 U.S. 967, 982 (2005). The Federal Circuit, however, held in *Johnson* that the language of prior 38 CFR 3.321(b)(1), not a statute, was ''unambiguous'' and ''consistent with language of [38 U.S.C.] § 1155 authorizing the regulation.'' 762 F.3d at 1365–66. Where a court decision is based on interpretation of an agency regulation, the agency may undertake rulemaking to revise the regulation to change or clarify the intended meaning of the regulation. *See National Org.*

Veterans' Advocates, Inc. v. *Secretary of Veterans Affairs,* 260 F.3d 1365, 1374 (Fed. Cir. 2001). Section 1155 of title 38, United States Code, authorizes VA to ''adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries . . . based, as far as practicable, upon the average impairments of earning capacity . . . in civil occupations.'' The statute does not mention an extra-schedular evaluation, but rather leaves it to VA's discretion to determine when it is not practicable to assign a rating based upon loss in average earning capacity, and 38 CFR 3.321(b)(1) explains when VA will do so. We therefore do not believe that amendment of the regulation violates separation of powers or due process.

II. Conflict With 38 U.S.C. 1155

Four commenters stated that amended section 3.321(b)(1) contradicts 38 U.S.C. 1155. One commenter stated that, by limiting an extra-schedular evaluation to an individual rating, an adjudicator is barred from considering a veteran's average earning impairment resulting from a veteran's ''injuries'' and instead must look to the impairment of each injury. Another commenter stated that the amended rule would render the term ''combination of injuries'' in section 1155 superfluous. A third commenter stated that the regulation is inconsistent with the plain language of the statute because it applies to a single disability and as a result, the rule will have no controlling weight. The fourth commenter stated that the regulation should compensate for ''average impairments of earning capacity'' as provided in section 1155 rather than ''actual impairment of earning capacity'' as provided in amended section 3.321(b)(1).

The rule does not contradict or misinterpret 38 U.S.C. 1155. As explained above, section 1155 authorizes VA to ''adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries. The ratings shall be based, as far as practicable, upon the average impairments of earning capacity . . . in civil occupations.'' VA has specified how its rating schedule will be applied to determine average impairments in earning capacity due to combinations of injuries. Under the table in 38 CFR 4.25, the ratings for each disability which are based upon the average earning impairment are combined and a rating is assigned for the combined effect of the disabilities. Thus, the terms ''injuries'' and ''combination of injuries'' in section 1155 are not rendered superfluous as a result of revised section 3.321(b)(1). Further, section 1155 states that ''ratings shall be based, as far as practicable, upon the average impairments of earning capacity.'' VA's rule provides for discretion in cases where the schedule is inadequate to compensate for average impairment of earning capacity. Therefore, the regulation is not inconsistent with the statute.

We disagree with the comment that section 3.321(b)(1) must compensate for impairment of ''average earning capacity.'' Rather, as the commenter acknowledges, an extra-schedular evaluation is intended for ''the exceptional case where the schedular evaluation,'' which is based on average earning capacity, ''is inadequate.'' Section 1155 states that the rating schedule is to be ''based, as far as practicable, upon the average impairments of earning capacity.'' By its terms, the statute leaves to VA's discretion situations where use of a schedule based on average impairments is not practical or feasible. Pursuant to this authority, VA has promulgated section 3.321(b)(1) allowing for an extra-schedular evaluation in cases in which application of the regular schedular standards is impractical because the veteran's disability is so exceptional or unusual due to such related factors as marked interference with employment or frequent periods of hospitalization. In clarifying its longstanding policy in the amended regulation, VA will continue to look to the evidence to determine whether the veteran's service-connected disability causes factors such as marked interference with employment or frequent periods of hospitalization, rather than limiting a veteran to a schedular rating based upon average impairment of earning capacity.

Another commenter stated that the regulation is inconsistent with the congressionally mandated statutory scheme, which is pro-veteran. As explained above, by its terms, 38 U.S.C. 1155 leaves to VA's discretion situations where use of a schedule based on average impairments is not practicable or feasible, *i.e.,* where applying such a schedule would not result in a rating reflective of the true measure of disability. Because 38 CFR 3.321(b)(1) allows for an extra-schedular evaluation in cases where the disability is ''so exceptional or unusual due to such related factors as marked interference with employment or frequent periods of hospitalization'' as to render impractical the application of the regular schedular standards, we believe that the rule is consistent with title 38, United States Code, and is pro-veteran.

As explained in the notice of proposed rulemaking, 81 FR at 23230, VA has limited extra-schedular consideration to individual disabilities in part due to the substantial difficulty that would accompany efforts to apply such consideration to the combined effects of multiple disabilities in a logical and consistent manner. A determination as to whether existing rating-schedule provisions are inadequate to evaluate a particular claimant's disability requires comparison of the manifestations of the claimant's disability with the types of manifestations listed in the applicable rating schedule provisions. Ratings for combinations of disabilities are determined by application of a standard formula in 38 CFR 4.25, and there are thus no provisions in the rating schedule describing impairments that would be associated with a particular combination of disabilities. Accordingly, VA adjudicators would have no objective standard for determining whether a particular combined rating is adequate or inadequate. Requiring adjudicators to consider the adequacy of combined ratings would lead to inconsistent and highly subjective determinations, and would likely cause delays in the adjudication of claims. These effects would in some respects be detrimental to claimants and to the effective operation of VA's claims-adjudication system.

III. VA's Interpretation of Prior Version of 38 CFR 3.321(b)(1)

One commenter disputed VA's statement in the notice of proposed rulemaking that the Department has long interpreted 38 CFR 3.321(b)(1) to provide an extra-schedular evaluation for only one service-connected disability. The commenter cited to the dissenting opinion in the Veterans Court's *Johnson* decision, 26 Vet. App. at 257–58, regarding the regulatory language over time. 81 FR 23278.

We respectfully disagree with the analysis of VA's interpretation of the regulation over time. As we stated in the notice of proposed rulemaking, VA, since 1936, has interpreted section 3.321(b)(1) to provide for an extra-schedular evaluation for each service-connected disability for which the schedular evaluation is inadequate based upon the regulatory criteria. The original rule which was promulgated in 1930, R & PR 1307(B), required that a recommendation from a field office alleging that the rating schedule provides inadequate or excessive ratings in an individual case include a statement of findings regarding the

extent to which a veteran's actual reduction in earning capacity ''is due to the service-connected disability.'' The regulation includes only the single version of the word ''disability.'' The 1936 version of the rule, R & PR 1142, required a submitting agency to provide a recommendation ''concerning service connection and evaluation of every disability, under . . . the applicable schedules as interpreted by the submitting agency.'' This sentence was deleted from the regulation in 1954, but was incorporated in the Department of Veterans Benefits Veterans Administration Manual 8–5 Revised, para. 47.j. (Jan. 6, 1958), to provide instruction for cases referred under VA Regulation 1142. The word ''every'' means ''[a]ll of a whole collection or aggregate number, *considered separately, one by one;* each, considered as a unitary part of an aggregate number.'' Every, Ballentine's Law Dictionary (emphasis added). Thus, for 28 years following promulgation of R & PR 1307(B) and (C), the VA predecessor regulations to 38 CFR 3.321(b)(1) and the Manual provided for an extra-schedular evaluation based upon the effects of a ''disability,'' not disabilities.

The Federal Circuit has previously recognized that VA's interpretation of section 3.321(b)(1) is found in the VBA Manual. *Thun* v. *Shinseki,* 572 F.3d 1366, 1369 (Fed. Cir. 2009). As explained above, the 1958 Manual M8–5 Revised, para. 47.j., instructed that every claims folder forwarded for extra-schedular consideration ''will include a definite recommendation from the submitting agency concerning evaluation of *every disability* under the schedule as interpreted by the submitting agency with the diagnostic code.'' In 1992, VBA revised the VBA Manual by adding the word ''individual'' before the word ''disability(ies)'' in paragraph 3.09, Submission For Extra-Schedular Consideration. M21–1, Part VI, para. 3.09 (Mar. 17, 1992), which required preparation of a memorandum to be submitted to Central Office ''whenever the schedular evaluations are considered to be inadequate for an individual disability(ies).'' Thus, we believe that there is ample support for the statement that VA has long-interpreted section 3.321(b)(1) and its predecessors as providing for an extra-schedular evaluation for a single service-connected disability that was not adequately compensated under the rating schedule.

IV. Coverage of Single Disability Under Amended Section 3.321(b)(1)

Two commenters pointed out that section 3.321(b)(1) is intended ''[t]o accord justice,'' and that the proposed rule is unjust and inequitable because it ignores the cumulative effects of multiple conditions on a veteran's earning capacity. *See Johnson,* 762 F.3d at 1366. Another commenter stated that proposed section 3.321(b)(1) ignores the fact that a veteran may have multiple service-connected disabilities that combine to limit the veteran's ability to work or that combine to generate an actual condition worse than that contemplated by the disability schedule.

The commenters mistakenly assume that VA may only ''accord justice'' if all service-connected disabilities are considered collectively for deciding entitlement to an extra-schedular evaluation. There is no dispute that 3.321(b)(1) accords justice by authorizing extra-schedular ratings based upon the effect of a service-connected disability upon an individual veteran rather than limiting the veteran to a schedular rating based upon average impairment of earning capacity. Also, the phrase ''[t]o accord justice'' is given context in section 3.321(b)(1) by the sentence that precedes it: ''[r]atings shall be based, as far as practicable, upon the average impairments of earning capacity with the additional proviso that the Secretary shall from time to time readjust this schedule of ratings in accordance with experience.'' The rule thus authorizes VA to assign ratings beyond those provided in the schedule even in advance of any necessary revision to the rating schedule. Further, there is a policy reason for limiting an extra-schedular evaluation under section 3.321(b)(1) to a single service-connected disability. As explained above, VA believes that the rule is consistent with the regulatory scheme, under which there is a distinction between application of the schedular criteria relating to specific disabilities and the application of the formula in 38 CFR 4.25 for combining individual disability ratings.

A commenter inquired about whether a veteran would be entitled to an extra-schedular rating for each service-connected disability. A veteran would be entitled to an extra-schedular rating for each service-connected disability that satisfies the criteria in the rule, *i.e.,* (1) the schedular evaluation for the disability is inadequate; and (2) the disability is so exceptional or unusual due to related factors such as marked interference with employment or frequent periods of hospitalization.

V. Conflict Between Amended Section 3.321(b)(1) and Other VA Regulations

One commenter stated that the rule appears to conflict with 38 CFR 3.102, which provides that VA will ''administer the law under a broad interpretation.'' We do not believe that there is a conflict because, rather than limit a veteran to a schedular rating that is ''inadequate,'' 38 CFR 3.321(b)(1) provides for an extra-schedular evaluation to account for an ''exceptional or unusual disability'' involving ''marked interference with employment or frequent periods of hospitalization.''

One commenter wrote that the rule is inconsistent with VA's regulatory scheme for evaluating disabilities because it considers a disability in a vacuum, pointing to 38 CFR 4.10 regarding functional impairment and 38 CFR 3.383, which pertains to special consideration if a veteran has suffered loss of certain paired organs or extremities as a result of service-connected disabilities and non-service-connected disabilities.

The regulations cited by the commenter do not support the comment. Section 4.10 states that ''[t]he basis of disability evaluations is the ability of the body as a whole . . . to function under the ordinary conditions of daily life including employment.'' The cited statement, however, falls within Subpart A of the Part 4 regulations, which provides ''regulations prescribing the policies and procedures for conducting VA medical examinations,'' which are not considered a part of the rating schedule because ''[t]he rating schedule consists only of those regulations that establish disabilities and set forth the terms under which compensation shall be provided.'' *Martinak* v. *Nicholson,* 21 Vet. App. 447, 451–52 (2007) (citing 38 U.S.C. 1155); *Vazquez-Flores* v. *Shinseki,* 580 F.3d 1270, 1280 (Fed. Cir. 2009). ''Thus, . . . the effects of a disability on one's daily life . . . are not relevant to a disability rating made by a ratings specialist.'' *Vazquez-Flores,* 580 F.3d at 1280. While section 4.10 and related regulations make clear that fully descriptive medical examinations are needed to facilitate application of VA's rating schedule, they do not alter the operation of the rating schedule, which provides for disability ratings to be assigned for each separate disability under the applicable criteria of the rating schedule.

Section 3.383 of title 38, Code of Federal Regulations, implements 38 U.S.C. 1160, which provides that, in certain cases of paired organs or

extremities in which a veteran has a non-service-connected disability attributable to one organ or extremity and a service-connected disability associated with the other organ or extremity, VA must pay compensation as if the combination of disabilities were the result of service-connected disability. Thus, Congress has specified the manner of considering the combined effects of these disabilities. Section 3.321(b)(1), on the other hand, fills a gap in 38 U.S.C. 1155 providing the Secretary with authority to address instances in which the ratings for individual disabilities under the schedule are not practicable or feasible.

One commenter stated that VA's proposed regulation does not take into account veterans who do not qualify for consideration of entitlement to a rating of total disability based upon individual unemployability (TDIU) under 38 CFR 4.16(b). The commenter states that a veteran may be forced to drop out of the workforce and apply for TDIU as a result of extra-schedular evaluations based upon a single disability.

Section 3.321(b)(1) addresses a different issue than section 4.16(a) and (b) were written to address. Section 3.321(b)(1) provides an exception to reliance upon a particular rating contained in the rating schedule where the schedule is determined to be inadequate in a particular case and examines the rating issue from the perspective of the schedule in rating a veteran's disability and provides adjustments to the schedule based on the veteran's disability. Section 4.16, on the other hand, looks at the situation from the perspective of the unemployability of an individual veteran. Under section 4.16(a) and (b), the deciding official looks at the overall impairment of a veteran to determine whether the veteran is employable regardless of the particular disability rating or combination of disability ratings awarded. Thus, section 3.321(b)(1) focuses on the schedule's failure to address the effect of a veteran's particular disability and the latter focuses upon the veteran's overall employability. Amending section 3.321(b)(1) based on this comment would also render section 4.16 superfluous because section 3.321(b)(1) could be the basis for a 100 percent extra-schedular rating which would be equivalent to a TDIU rating.

Another commenter stated that the combined ratings table is inadequate to compensate for the vast array of potential interactions between multiple disabilities. The commenter disputed VA's statement in the notice of proposed rulemaking that there is no mechanism for comparing the combined effects of multiple service-connected disabilities with the schedular criteria and contends, citing *Yancy* v. *McDonald,* 27 Vet. App. 484 (2016), that the Department can evaluate the combined effects of multiple disabilities and then compare those effects to the symptoms contemplated for individual disabilities.

The commenter misunderstands VA's statement. In *Johnson,* the Federal Circuit held that referral for an extra-schedular evaluation ''may be based on the collective impact of the veteran's disabilities.'' 762 F.3d at 1365. In *Yancy,* 27 Vet. App. at 495, the Veterans Court stated that the first step when considering entitlement to an extra-schedular evaluation is to decide whether the schedular evaluations reasonably contemplate the veteran's symptomatology, including any symptoms resulting from the combined effects of multiple service-connected disabilities. However, as VA explained in the notice of proposed rulemaking, there are no provisions in the rating schedule describing impairments associated with a particular combination of disabilities. 81 FR 23230. VA does not merely aggregate symptoms of a veteran's service-connected disabilities. Rather, VA evaluates the combined effects of multiple service-connected disabilities by ''consider[ing] . . . the efficiency of the individual as affected first by the most disabling condition, then by the less disabling condition, then by other less disabling conditions, if any, in the order of severity.'' 38 CFR 4.25. As a result, it is not possible for the Department to determine for purposes of 38 CFR 3.321(b)(1) whether the rating derived from application of section 4.25 is ''inadequate'' to compensate for the combined effects of these disabilities. 81 FR 23230.

If, in a particular case, evidence indicated that two or more service-connected disabilities combined to produce a symptom the claimant believed was not adequately addressed by the rating criteria for any of the individual disabilities at issue, the claimant could, under this rule, seek extra-schedular ratings for the individual conditions and VA would be required to evaluate the medical evidence in determining whether the rating schedule was adequate to evaluate each disabling condition, but would not be required to separately determine whether the combined rating resulting from 38 CFR 4.25 was adequate to evaluate the combined effects of the multiple disabilities.

VI. Decision Maker on Extra-Schedular Claims

A commenter stated that, to the extent that extraschedular evaluation of the combined effect of multiple disabilities may impose an additional burden on the Director of the Compensation Service, the decision should instead be made by regional offices (RO) and the Board of Veterans' Appeals. We agree that the ROs should make these fact-intensive decisions in the first instance, and we have therefore revised the rule by eliminating the phrase ''upon field station submission'' and the word ''referred.''

VII. Section 3.321(b)(1) Criteria for Extra-Schedular Evaluation

Three commenters criticized the proposed rule on the basis that it does not provide guidance about how to apply the proposed rule or to the Board about how to review the Director's finding.

The standards for awarding an extra-schedular award are set forth in section 3.321(b) and have been included in the regulation since 1961. *See* 38 CFR 3.321(B) (1961). Extraschedular consideration is a question of fact ''assessing a veteran's unique disability picture and whether that picture results in an average impairment in earning capacity significant enough to warrant an extraschedular rating.'' *Kuppamala* v. *McDonald,* 27 Vet. App. 447, 454 (2015). Current VBA procedures require the RO to submit a memorandum to the Director that includes the evidence used for the review, including the medical evidence in detail for each service-connected disability. M21–1, Part III, Subpart iv, chapt. 6, § B, para. 4.d. and h. (July 25, 2017). The question for the VA decision maker is whether a veteran's disability is ''exceptional or unusual'' because the disability ''marked[ly] interfere[s] with employment or [causes] frequent periods of hospitalization.'' The Board's review of the matter is de novo and requires consideration of all evidence and information pertaining to whether the degree and frequency of an individual's veteran's disability interferes with employment or causes frequent periods of hospitalization. *Kuppamala,* 27 Vet. App. at 458–59.

One commenter stated that, in *Kuppamala,* the Secretary admitted that there are no manageable standards for the assignment of an extraschedular rating. In fact, the Secretary argued in *Kuppamala* ''there are no *judicially* manageable standards governing the Director's decision as to extraschedular ratings,'' which would make it

impossible for the Board to review the decision. *Id.* at 452 (emphasis added). The Veterans Court concluded, however, that 38 U.S.C. 1155 and 38 CFR 3.321(b)(1) provide a judicially manageable standard. *Id.* at 454.

Another commenter stated that VA does not explain how it is possible to '''ensure fair and consistent application of rating standards''' given that 38 CFR 3.321(b)(1) requires an initial finding that the ''schedular evaluation is inadequate.'' (Quoting 81 FR 23231). The rating standards to which VA referred relate to a determination about whether a veteran is entitled to an extra-schedular evaluation, and as explained in the notice of proposed rulemaking, VA believes that the Department is able to fairly and consistently apply rating standards if consideration under section 3.321(b)(1) is limited to whether a rating for an individual disability is adequate as opposed to deciding whether a combined rating based upon residual work efficiency is adequate to rate multiple service-connected disabilities.

One commenter stated that the definition of the term ''disability'' in amended section 3.321(b)(1) is unclear and that an extra-schedular evaluation should be available for disability arising from a common disease entity or etiology. The commenter states that, if a veteran has a knee disability that causes both limitation or motion and instability, both effects of the disability should be evaluated together for purposes of entitlement to an extra-schedular rating.

''Words are not pebbles in alien juxtaposition; they have only a communal existence; and not only does the meaning of each interpenetrate the other, but all in their aggregate take their purport from the setting in which they are used.'' *Shell Oil Co.* v. *Iowa Dep't of Revenue,* 488 U.S. 19, 25 n.6 (1988) (quoting *Nat'l Labor Relations Bd.* v. *Federbush Co.,* 121 F.2d 954, 957 (2d Cir. 1941)). Section 3.321(b)(1) states that, ''[t]o accord justice to the exceptional case where the schedular evaluation is inadequate to rate a single service-connected disability,'' an extra-schedular evaluation may be approved. The requirement that VA consider the adequacy of the schedular evaluation means that the term ''single service-connected disability'' refers to the individual condition for which the schedular evaluation is inadequate, rather than the effects of a disability, each of which may be rated individually before receiving a combined rating.

Another commenter stated that the rule does not define ''actual impairment in earning capacity'' and posed a series of questions about how the term will be defined, *e.g.,* whether a veteran must show loss of a certain amount of income as a result of the disability, and if so, how much of loss must the veteran suffer; whether inability to earn a higher level of income will suffice; and how will actual impairment in earning capacity be determined if a veteran is not employed. We have considered these comments and agree that an extra-schedular rating should be commensurate with the average rather than actual impairment of earning capacity due exclusively to the disability and we have revised the rule accordingly.

VIII. Comments Beyond Scope of Rulemaking

A commenter criticized the algorithm used to combine disabilities in 38 CFR 4.25. Another commenter remarked on the inadequacy of the rates in 38 U.S.C. 1114, but acknowledged that this comment is beyond the scope of the rulemaking. These comments are beyond the scope of the rulemaking, and we therefore make no change based on these comments.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of this rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). This final rule will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.109, Veterans Compensation for Service-Connected Disability.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication

electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on November 13, 2017, for publication.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Veterans.

Dated: November 13, 2017.

Jeffrey Martin,

Impact Analyst, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 3 as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend § 3.321 by revising the heading of paragraph (b), and revising paragraph (b)(1), to read as follows:

§ 3.321 General rating considerations:

* * * * *

(b) *Extra-schedular ratings in unusual cases*—(1) *Disability compensation.* Ratings shall be based, as far as practicable, upon the average impairments of earning capacity with the additional proviso that the Secretary shall from time to time readjust this schedule of ratings in accordance with experience. To accord justice to the exceptional case where the schedular evaluation is inadequate to rate a single service-connected disability, the Director of Compensation Service or his or her delegate is authorized to approve on the basis of the criteria set forth in this paragraph (b), an extra-schedular evaluation commensurate with the average impairment of earning capacity due exclusively to the disability. The governing norm in these exceptional cases is a finding by the Director of Compensation Service or delegatee that application of the regular schedular standards is impractical because the disability is so exceptional or unusual due to such related factors as marked interference with employment or frequent periods of hospitalization.

* * * * *

[FR Doc. 2017–26523 Filed 12–7–17; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0058; FRL–9971–80—Region 5]

Air Plan Approval; Michigan; Regional Haze Progress Report; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the October 18, 2017, direct final rule approving the Michigan regional haze progress report under the Clean Air Act (CAA) as a revision to the Michigan State Implementation Plan (SIP).

DATES: The direct final rule published at 82 FR 48435 on October 18, 2017, is withdrawn effective December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Gilberto Alvarez, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6143, *alvarez.gilberto@epa.gov.*

SUPPLEMENTARY INFORMATION: In the direct final rule, EPA stated that if adverse comments were submitted by November 17, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on October 18, 2017 (82 FR 48473). EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

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

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

Dated: November 17, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendment to 40 CFR 52.1170 published in the **Federal Register** on October 18, 2017 (82 FR 48435), on page 48439 is withdrawn effective December 8, 2017.

[FR Doc. 2017–26409 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0701; FRL–9971–70—Region 3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Interstate Transport Requirements for the 2010 1-Hour Sulfur Dioxide Standard; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of adverse comment, the Environmental Protection Agency (EPA) is withdrawing the direct final rule to approve revisions to the District of Columbia state implementation plan (SIP) pertaining to the infrastructure requirement for interstate transport of pollution with respect to the 2010 1-hour sulfur dioxide (SO_2) national ambient air quality standards (NAAQS). In the direct final rule published on Wednesday, October 18, 2017 (82 FR 48439), EPA stated that if we received adverse comment by November 17, 2017, the rule would be withdrawn and not take effect. EPA subsequently received adverse comment. EPA will address the comments received in a subsequent final rulemaking action based upon the proposed action, also published on Wednesday, October 18, 2017 (82 FR 48472). EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 82 FR 48439 on October 18, 2017 is withdrawn effective December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Joseph Schulingkamp, (215) 814–2021, or by email at *schulingkamp.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION: On July 17, 2014, the District of Columbia (the District) through the District Department of Energy and the Environment (DDOEE) submitted a SIP revision addressing the infrastructure requirements under section 110(a)(2) of the Clean Air Act (CAA) for the 2010 1-hour SO_2 NAAQS. In the direct final rule published on October 18, 2017 (82 FR 48439), EPA stated that if EPA

received adverse comments by November 17, 2017, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from anonymous commenters.

Because adverse comments were received, EPA is withdrawing the direct final rule approving the revision to the District of Columbia SIP pertaining to the interstate transport requirements for the SO_2 NAAQS promulgated by EPA on October 18, 2017 (82 FR 48439). EPA will respond to the adverse comments in a separate final rulemaking action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 22, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

■ Accordingly, the amendments to 40 CFR 52.470 published on October 18, 2017 (82 FR 48439) are withdrawn effective December 8, 2017.

[FR Doc. 2017–26404 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2017–0157; FRL–9971–75-Region 5]

Air Plan Approval; Wisconsin; Regional Haze Progress Report; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the October 20, 2017, direct final rule approving the Wisconsin regional haze progress report under the Clean Air Act as a revision to the Wisconsin State Implementation Plan (SIP).

DATES: The direct final rule published at 82 FR 48766 on October 20, 2017, is withdrawn effective December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Gilberto Alvarez, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6143, *alvarez.gilberto@epa.gov.*

SUPPLEMENTARY INFORMATION: In the direct final rule, EPA stated that if adverse comments were submitted by November 20, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on October 20, 2017 (82 FR 48780). EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

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

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

Dated: November 27, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendment to 40 CFR part 52, Subpart YY—Wisconsin published in the **Federal Register** on October 20, 2017 (82 FR 48766), on page 48769 is withdrawn effective December 8, 2017.

[FR Doc. 2017–26407 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2017–0082; FRL–9971–79—Region 5]

Air Plan Approval; Illinois; Regional Haze Progress Report; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the October 18, 2017, direct final rule approving the Illinois regional haze progress report under the Clean Air Act as a revision to the Illinois State Implementation Plan (SIP).

DATES: The direct final rule published at 82 FR 48431 on October 18, 2017, is withdrawn effective December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategy Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov*.

SUPPLEMENTARY INFORMATION: In the direct final rule, EPA stated that if adverse comments were submitted by November 17, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on October 18, 2017 (82 FR 48473). EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

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

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

Dated: November 27, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendment to 40 CFR 52.720 published in the **Federal Register** on October 18, 2017 (82 FR 48431), on pages 48434–48435 is withdrawn effective December 8, 2017.

[FR Doc. 2017–26411 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2017–0554; FRL–9970–27—Region 10]

Air Plan Approval; AK: Updates to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Alaska State Implementation Plan (SIP). The regulations affected by

this format change have all been previously submitted by Alaska and approved by the EPA. In this action, the EPA is also notifying the public of corrections to typographical errors, and minor formatting changes to the IBR tables. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This rule is effective on December 8, 2017.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 10 Office of Air and Waste (OAW–150), 1200 Sixth Avenue, Seattle, WA 98101, or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Kristin Hall, EPA Region 10, (206) 553–6357, *hall.kristin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document that a state revises as necessary to address its unique air pollution problems. Therefore, from time to time, the EPA must take action on SIP revisions containing new and/or revised regulations, approving and incorporating them into the SIP. On May 22, 1997, the EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between the EPA and the Office of the Federal Register (OFR) (62 FR 27968). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format is discussed in further detail in the May 22, 1997, **Federal Register** document. On April 10, 2014, the EPA published a **Federal Register** beginning the new IBR procedure for Alaska (79 FR 19820). Since then, the EPA has approved and incorporated by reference the following provisions of Alaska Administrative Code (18 AAC 50), Alaska Statutes (AS), and Fairbanks North Star Borough (FNSB) Code into the Alaska SIP.

A. Added Regulations

- 18 AAC 50.007 Local Government Powers or Obligations Under a Local Air Quality Control Program
- 18 AAC 50.076 Solid Fuel-fired Heating Device Fuel Requirements; Standards for Commercial Wood-sellers
- 18 AAC 50.077 Standards for Wood-fired Heating Devices
- 18 AAC 50.246 Air Quality Episodes and Advisories for $PM_{2.5}$
- 18 AAC 50.400 Permit Administration Fees
- 18 AAC 50.510 Minor Permit: 18 AAC 50.510 Minor Permit—Title V Permit Interface
- 18 AAC 50.712 Agency Responsibilities
- FNSB 21.28.010 Definitions
- FNSB 21.28.020 Borough listed devices
- FNSB 21.28.030 Prohibited acts
- FNSB 21.28.050 Forecasting exceedances and restrictions in the air quality control zone during an alert
- FNSB 21.28.060 No other adequate source of heat determination

B. Revised Regulations

- 18 AAC 50.010 Ambient Air Quality Standards
- 18 AAC 50.015 Air Quality Designations, Classifications, and Control Regions
- 18 AAC 50.020 Baseline Dates and Maximum Allowable Increases
- 18 AAC 50.025 Visibility and Other Special Protection Areas
- 18 AAC 50.035 Documents, Procedures and Methods Adopted by Reference
- 18 AAC 50.040 Federal Standards Adopted by Reference
- 18 AAC 50.050 Incinerator Emission Standards
- 18 AAC 50.055 Industrial Processes and Fuel-Burning Equipment
- 18 AAC 50.065 Open Burning
- 18 AAC 50.215 Ambient Air Quality Analysis Methods
- 18 AAC 50.220 Enforceable Test Methods
- 18 AAC 50.230 Owner-Requested Limits
- 18 AAC 50.245 Air Quality Episodes and Advisories for Pollutants Other Than $PM_{2.5}$
- 18 AAC 50.260 Guidelines for Best Available Retrofit Technology Under the Regional Haze Rule
- 18 AAC 50.302 Construction Permits
- 18 AAC 50.306 Prevention of Significant Deterioration (PSD) Permits
- 18 AAC 50.345 Construction, Minor and Operating Permits: Standard Permit Conditions
- 18 AAC 50.400 Permit Administration Fees
- 18 AAC 50.502 Minor Permits for Air Quality Protection
- 18 AAC 50.508 Minor Permits Requested by the Owner or Operator
- 18 AAC 50.510 Minor Permit: 18 AAC 50.510 Minor Permit—Title V Permit Interface
- 18 AAC 50.540 Minor Permit: Application
- 18 AAC 50.542 Minor Permit: Review and Issuance
- 18 AAC 50.544 Minor Permit: Content
- 18 AAC 50.546 Minor Permit: Revisions
- 18 AAC 50.700 Purpose
- 18 AAC 50.705 Applicability
- 18 AAC 50.715 Interagency Consultation Procedures
- 18 AAC 50.720 Public Involvement
- 18 AAC 50.740 Written Commitments
- 18 AAC 50.745 Resolving Conflicts
- 18 AAC 50.750 Exempt Projects
- 18 AAC 50.990 Definitions
- AS 46.14.550 Responsibilities of Owner and Operator
- AS 46.14.990 Definitions

C. Removed Regulations

- 18 AAC 50.060 Pulp Mills
- 18 AAC 50.710 Transportation Conformity: Incorporation by Reference of Federal Regulations
- 18 AAC 50.725 General Conformity: Incorporation by Reference of Federal Regulations
- 18 AAC 50.735 General Conformity: Frequency of Conformity Determinations
- AS 46.14.510 Motor Vehicle Pollution

II. EPA Action

In this action, the EPA is announcing the update to the IBR material as of September 8, 2017. The EPA is correcting minor typographical errors and rearranging and republishing the contents of subsection 52.70(c). The EPA is also rearranging and republishing the contents of subsection 52.70(e) to align the contents with the outline of the Alaska state plan volumes and sections. We note we are correcting entries 18 AAC 50.075 and 18 AAC 50.077 in subsection 52.70(c) to accurately reflect the portions of these rule sections that were withdrawn by the State and not approved into the SIP (September 8, 2017, 82 FR 42457). We are also correcting the table in subsection 52.70(e) to reflect our approval of the appendices to the Regional Haze Plan at entry III.III.K. (February 14, 2013, 78 FR 10546) and our most recent approval of the State Air Statutes at entry III.II.A. (September 19, 2014, 79 FR 56268).

The EPA has determined that this rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed

effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of previously EPA-approved regulations promulgated by Alaska and federally-effective prior to September 8, 2017. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Orders Review

A. General Requirements

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

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

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

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Alaska regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

B. Submission to Congress and the Comptroller General

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 rule 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

The EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Alaska SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, the EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for Alaska.

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 record keeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 19, 2017.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

Part 52 of 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 C—Alaska

■ 2. In § 52.70, revise paragraphs (b) through (e) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to September 8, 2017, was approved for incorporation by reference by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval

dates after September 8, 2017, will be incorporated by reference in the next update to the SIP compilation.

(2) The EPA Region 10 certifies that the rules and regulations provided by the EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of September 8, 2017.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region 10 Office at 1200 Sixth Avenue, Seattle WA, 98101; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) EPA approved regulations.

EPA-APPROVED ALASKA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanations
Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50—Air Quality Control (18 AAC 50)				
18 AAC 50—Article 1. Ambient Air Quality Management				
18 AAC 50.005	Purpose and Applicability of Chapter	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50.007	Local Government Powers or Obligations Under a Local Air Quality Control Program.	2/28/2015	9/8/2017, 82 FR 42457.	
18 AAC 50.010	Ambient Air Quality Standards	8/20/2016	8/28/2017, 82 FR 40712.	Except (8).
18 AAC 50.015	Air Quality Designations, Classifications, and Control Regions.	4/17/2015	5/19/2016, 81 FR 31511.	
18 AAC 50.020	Baseline Dates and Maximum Allowable Increases.	8/20/2016	8/28/2017, 82 FR 40712.	
18 AAC 50.025	Visibility and Other Special Protection Areas	11/26/2016	9/8/2017, 82 FR 42457.	
18 AAC 50.035	Documents, Procedures and Methods Adopted by Reference.	8/20/2016	8/28/2017, 82 FR 40712.	Except (a)(6) and (b)(4).
18 AAC 50.040	Federal Standards Adopted by Reference	8/20/2016; 11/9/2014	8/28/2017, 82 FR 40712; 1/7/2015, 80 FR 832.	Except (a), (b), (c), (d), (e), (g), (j) and (k).
18 AAC 50.045	Prohibitions	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50.050	Incinerator Emission Standards	7/25/2008	9/19/2014, 79 FR 56268.	
18 AAC 50.055	Industrial Processes and Fuel-Burning Equipment.	8/20/2016	8/28/2017, 82 FR 40712.	Except (d)(2)(B).
18 AAC 50.065	Open Burning	3/2/2016	9/8/2017, 82 FR 42457.	
18 AAC 50.070	Marine Vessel Visible Emission Standards	6/21/1998	8/14/2007, 72 FR 45378.	
18 AAC 50.075	Solid Fuel-Fired Heating Device Visible Emission Standards.	11/26/2016	9/8/2017, 82 FR 42457.	Except (d)(2).
18 AAC 50.076	Solid Fuel-Fired Heating Device Fuel Requirements; Registration of Commercial Wood Sellers.	11/26/2016	9/8/2017, 82 FR 42457.	Except (g)(11).
18 AAC 50.077	Standards for Wood-Fired Heating Devices	11/26/2016	9/8/2017, 82 FR 42457.	Except (h).
18 AAC 50.080	Ice Fog Standards	1/18/1997	8/14/2007, 72 FR 45378.	
18 AAC 50.100	Nonroad Engines	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50.110	Air Pollution Prohibited	5/26/1972	5/31/1972, 37 FR 10842.	
18 AAC 50—Article 2. Program Administration				
18 AAC 50.200	Information Requests	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50.201	Ambient Air Quality Investigation	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50.205	Certification	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50.215	Ambient Air Quality Analysis Methods	8/20/2016	8/28/2017, 82 FR 40712.	Except (a)(4).
18 AAC 50.220	Enforceable Test Methods	9/14/2012	9/19/2014, 79 FR 56268.	Except (c)(1)(A), (B), (C), and (c)(2).
18 AAC 50.225	Owner-Requested Limits	10/6/2013	5/27/2015, 80 FR 30161.	

EPA-APPROVED ALASKA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
18 AAC 50.230	Preapproved Emission Limits	9/26/2015; 1/29/2005	11/25/2016, 81 FR 85160; 8/14/2007, 72 FR 45378.	Except (d).
18 AAC 50.240	Excess Emissions	1/18/1997	11/18/1998, 63 FR 63983.	
18 AAC 50.245	Air Quality Episodes and Advisories for Air Pollutants Other than $PM_{2.5}$.	2/28/2015	9/8/2017, 82 FR 42457.	
18 AAC 50.246	Air Quality Episodes and Advisories for $PM_{2.5}$.	2/28/2015	9/8/2017, 82 FR 42457.	
18 AAC 50.250	Procedures and Criteria for Revising Air Quality Classifications.	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50.260	Guidelines for Best Available Retrofit Technology under the Regional Haze Rule.	9/26/2015; 10/6/2013	11/25/2016, 81 FR 85160; 5/27/2015, 80 FR 30161.	
18 AAC 50—Article 3. Major Stationary Source Permits				
18 AAC 50.301	Permit Continuity	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50.302	Construction Permits	9/14/2012	9/19/2014, 79 FR 56268.	Except (a)(3).
18 AAC 50.306	Prevention of Significant Deterioration (PSD) Permits.	1/4/2013	9/19/2014, 79 FR 56268.	
18 AAC 50.311	Nonattainment Area Major Stationary Source Permits.	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50.345	Construction, Minor and Operating Permits: Standard Permit Conditions.	8/20/2016	8/28/2017, 82 FR 40712.	Except (b), (c)(3), and (l).
18 AAC 50—Article 4. User Fees				
18 AAC 50.400	Permit Administration Fees	9/26/2015	11/25/2016, 81 FR 85160.	Except (a), (b), (c), and (i).
18 AAC 50—Article 5. Minor Permits				
18 AAC 50.502	Minor Permits for Air Quality Protection	8/20/2016	8/28/2017, 82 FR 40712.	
18 AAC 50.508	Minor Permits Requested by the Owner or Operator.	12/9/2010	9/19/2014, 79 FR 56268.	
18 AAC 50.510	Minor Permit—Title V Permit Interface	12/9/2010	9/19/2014, 79 FR 56268.	
18 AAC 50.540	Minor Permit: Application	8/20/2016	8/28/2017, 82 FR 40712.	
18 AAC 50.542	Minor Permit: Review and Issuance	8/20/2016	8/28/2017, 82 FR 40712.	Except (b)(2).
18 AAC 50.544	Minor Permits: Content	12/9/2010	9/19/2014, 79 FR 56268.	
18 AAC 50.546	Minor Permits: Revisions	7/15/2008	9/19/2014, 79 FR 56268.	Except (b).
18 AAC 50.560	General Minor Permits	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50—Article 7. Transportation Conformity				
18 AAC 50.700	Purpose	4/17/2015	9/8/2015; 80 FR 53735.	
18 AAC 50.705	Applicability	4/17/2015	9/8/2015; 80 FR 53735.	
18 AAC 50.712	Agency Responsibilities	4/17/2015	9/8/2015; 80 FR 53735.	
18 AAC 50.715	Interagency Consultation Procedures	3/2/2016	8/28/2017, 82 FR 40712.	
18 AAC 50.720	Public Involvement	3/2/2016	8/28/2017, 82 FR 40712.	
18 AAC 50.740	Written Comments	4/17/2015	9/8/2015, 80 FR 53735.	
18 AAC 50.745	Resolving Conflicts	4/17/2015	9/8/2015, 80 FR 53735.	
18 AAC 50.750	Exempt Projects	4/17/2015	9/8/2015, 80 FR 53735.	

EPA-APPROVED ALASKA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
18 AAC 50—Article 9. General Provisions				
18 AAC 50.900	Small Business Assistance Program	10/1/2004	8/14/2007, 72 FR 45378.	
18 AAC 50.990	Definitions	3/2/2016	9/8/2017, 82 FR 42457.	
Alaska Administrative Code Title 18 Environmental Conservation, Chapter 52—Emissions Inspection and Maintenance Requirements (18 AAC 52)				
18 AAC 52—Article 1. Emissions Inspection and Maintenance Requirements				
18 AAC 52.005	Applicability and General Requirements	5/17/2008	3/22/2010, 75 FR 13436.	
18 AAC 52.007	Suspension and Reestablishment of I/M Requirements.	5/17/2008	3/22/2010, 75 FR 13436.	
18 AAC 52.010	I/M Program Administration Office	2/18/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.015	Motor Vehicle Maintenance Requirements	2/18/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.020	Certificate of Inspection Requirements	2/18/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.025	Visual Identification of Certificate of Inspection, Waivers, and Exempt Vehicles.	2/18/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.030	Department-Administered I/M Program	2/1/1994	4/5/1995, 60 FR 17232.	
18 AAC 52.035	I/M Program Administered by an Implementing Agency.	3/27/2002	3/22/2010, 75 FR 13436.	
18 AAC 52.037	Reporting Requirements for an I/M Program Administered by an Implementing Agency.	2/18/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.040	Centralized Inspection Program	2/1/1994	4/5/1995, 60 FR 17232.	
18 AAC 52.045	Decentralized Inspection Program	2/1/1994	4/5/1995, 60 FR 17232.	
18 AAC 52.050	Emissions Standards	3/27/2002	3/22/2010, 75 FR 13436.	
18 AAC 52.055	Alternative Requirements, Standards and Test Procedures.	1/1/2000	1/8/2002, 67 FR 822	
18 AAC 52.060	Waivers	5/17/2008	3/22/2010, 75 FR 13436.	
18 AAC 52.065	Emissions-Related Repair Cost Minimum	1/1/2000	1/8/2002, 67 FR 822	
18 AAC 52.070	Referee Facility	3/27/2002	3/22/2010, 75 FR 13436.	
18 AAC 52.075	Kit Cars and Custom-Manufactured Vehicles	2/1/1994	4/5/1995, 60 FR 17232.	
18 AAC 52.080	Grey Market Vehicles	3/27/2002	3/22/2010, 75 FR 13436.	
18 AAC 52.085	Vehicle Modifications	2/18/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.090	Repair of Nonconforming Vehicles	1/1/1998	12/29/1999, 64 FR 72940.	
18 AAC 52.095	Minimum Certification Requirements	1/1/1998	12/29/1999, 64 FR 72940.	
18 AAC 52.100	Enforcement Procedures for Violations by Motorists.	12/14/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.105	Enforcement Procedures for Violations by Certified Mechanics or Stations.	1/1/2000	1/8/2002, 67 FR 822	
18 AAC 52—Article 4. Certification Requirements				
18 AAC 52.400	Mechanic Certification	1/1/1998	12/29/1999, 64 FR 72940.	
18 AAC 52.405	Certified Mechanic Examinations	3/27/2002	3/22/2010, 75 FR 13436.	
18 AAC 52.410	Training Course Certification	2/18/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.415	I/M Station Certification	1/1/2000	1/8/2002, 67 FR 822	
18 AAC 52.420	Equipment Certification	1/1/2000	1/8/2002, 67 FR 822	
18 AAC 52.425	Renewal of Certification	1/1/1998	12/29/1999, 64 FR 72940.	

EPA-APPROVED ALASKA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
18 AAC 52.430	Duty to Report Change in Status	2/1/1994	4/5/1995, 60 FR 17232.	
18 AAC 52.440	Monitoring of Certified Mechanics and Stations.	1/1/2000	1/8/2002, 67 FR 822	
18 AAC 52.445	Suspension or Revocation of Certification	2/1/1994	4/5/1995, 60 FR 17232.	
18 AAC 52—Article 5. Certified Station Requirements				
18 AAC 52.500	General Operating Requirements	1/1/2000	1/8/2002, 67 FR 822	
18 AAC 52.505	Display of Certified Station Sign	2/1/1994	4/5/1995, 60 FR 17232.	
18 AAC 52.510	Display of Certificates	2/18/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.515	Inspection Charges	2/18/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.520	Required Tools and Equipment	2/18/2006	3/22/2010, 75 FR 13436.	
18 AAC 52.525	Remote Station Operation	1/1/2000	1/8/2002, 67 FR 822	
18 AAC 52.527	Prescreening Prohibited	1/1/2000	1/8/2002, 67 FR 822	
18 AAC 52.530	Preliminary Inspection	1/1/2000	1/8/2002, 67 FR 822	
18 AAC 52.535	Test Abort Conditions	3/27/2002	3/22/2010, 75 FR 13436.	
18 AAC 52.540	Official I/M Testing	3/27/2002	3/22/2010, 75 FR 13436.	
18 AAC 52.545	Parts on Order	1/1/1998	12/29/1999, 64 FR 72940.	
18 AAC 52.546	Unavailable Parts	1/1/1998	12/29/1999, 64 FR 72940.	
18 AAC 52.550	Recordkeeping Requirements	2/1/1994	4/5/1995, 60 FR 17232.	
18 AAC 52—Article 9. General Provisions				
18 AAC 52.990	Definitions	2/18/2006	3/22/2010, 75 FR 13436.	
Alaska Administrative Code Title 18 Environmental Conservation, Chapter 53—Fuel Requirements for Motor Vehicles (18 AAC 53)				
18 AAC 53—Article 1. Oxygenated Gasoline Requirements				
18 AAC 53.005	Purpose and Applicability; General Requirements.	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.007	Dispenser Labeling	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.010	Control Periods and Control Areas	2/20/2004	6/23/2004, 69 FR 34935.	
18 AAC 53.020	Required Oxygen Content	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.030	Sampling, Testing and Oxygen Content Calculations.	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.035	Per Gallon Method of Compliance	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.040	Averaging Oxygen Content Method of Compliance.	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.045	Oxygen Credits and Debits	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.060	Oxygenated Gasoline Blending	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.070	Registration and Permit	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.080	Car Fees	12/30/2000	1/08/2002, 67 FR 822	
18 AAC 53.090	Recordkeeping	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.100	Reporting	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.105	Product Transfer Document	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.120	Inspection and Sampling	10/31/1997	12/29/1999, 64 FR 72940.	

EPA-APPROVED ALASKA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
18 AAC 53.130	Liability for Violation	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.140	Defenses for Violation	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.150	Temporary Variances	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.160	Quality Assurance Program	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.170	Attest Engagements	10/31/1997	12/29/1999, 64 FR 72940.	
18 AAC 53.190	Suspension and Reestablishment of Control Period.	2/20/2004	6/23/2004, 69 FR 34935.	
18 AAC 53—Article 9. General Provisions				
18 AAC 53.990	Definitions	10/31/1997	12/29/1999, 64 FR 72940.	
Alaska Statutes				
Title 45 Trade and Commerce, Chapter 45.45. Trade Practices				
Sec. 45.45.400	Prohibited Transfer of Used Cars	6/25/1993	11/18/1998, 63 FR 63983.	Except (b).
Title 46 Water, Air, Energy, and Environmental Conservation, Chapter 46.14—Air Quality Control				
Sec. 46.14.550	Responsibilities of Owner and Operator; Agent for Service.	1/4/2013	9/19/2014, 79 FR 56268.	
Sec. 46.14.560	Unavoidable Malfunctions and Emergencies	6/25/1993	11/18/1998, 63 FR 63983.	
Sec. 46.14.990	Definitions	1/4/2013	9/19/2014, 79 FR 56268.	Except (1) through (3), (6), (7), (9) through (14), (19) through (26), and (28).
City and Borough Codes and Ordinances				
Anchorage Municipal Code 21.85.030.	Improvement Requirements by Improvement Area.	1/16/1987 (city effective date).	8/13/1993, 58 FR 43084.	Eagle River PM Plan—Contingency Plan.
Anchorage Municipal Code 21.45.080.W.7.	Paving	9/24/1991 (city effective date).	8/13/1993, 58 FR 43084.	Section W.7. Eagle River PM Plan—Contingency Plan.
Fairbanks North Star Borough Ordinance No. 2001–17.	Mandating a Fairbanks North Star Borough Motor Vehicle Plug-in Program.	4/12/2001 (borough adoption date).	2/4/2002, 67 FR 5064	Fairbanks Transportation Control Program—Carbon Monoxide.
Fairbanks North Star Borough Ordinance No. 2003–71.	An Ordinance amending the Carbon Monoxide Emergency Episode Prevention Plan including implementing a Woodstove Control Ordinance.	10/30/2003 (borough adoption date).	7/27/2004, 69 FR 44601.	Fairbanks Carbon Monoxide Maintenance Plan.
Ordinance of the City and Borough of Juneau, No. 91–52.	An Ordinance amending the Wood smoke control code to lower the particulate count threshold, and to prohibit the burning in woodstoves of substances other than paper, cardboard and untreated wood.	1/6/1992 (city adoption date).	3/24/1994, 59 FR 13884.	Mendenhall Valley PM Plan.
Ordinance of the City and Borough of Juneau, No. 91–53.	An Ordinance amending the wood smoke control fine schedule to increase the fines for violations of the wood smoke control code.	1/6/1992 (city adoption date).	3/24/1994, 59 FR 13884.	Mendenhall Valley PM Plan.
Ordinance of the City and Borough of Juneau No. 93–01.	Setting boundaries for regrading and surfacing.	2/8/1993 (city adoption date).	3/24/1994, 59 FR 13884.	Mendenhall Valley PM Plan.
Ordinance of the City and Borough of Juneau, No. 93–06.	Setting boundaries for regrading and surfacing.	4/5/1993 (city adoption date).	3/24/1994, 59 FR 13884.	Mendenhall Valley PM Plan.
Ordinance of the City and Borough of Juneau, No. 93–39am.	An Ordinance creating Local Improvement District No. 77 of the City and Borough, setting boundaries for drainage and paving of streets in the Mendenhall Valley.	11/17/1993 (city adoption date).	3/24/1994, 59 FR 13884.	Mendenhall Valley PM Plan.

EPA-APPROVED ALASKA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
Anchorage Ordinance 2006–13.	An ordinance amending the Anchorage Municipal Code, Chapters 15.80 and 15.85 to comply with State I/M regulations and to comply with DMV Electronic Procedures.	2/14/2006 (city approval date).	3/22/2010, 75 FR 13436.	Anchorage Transportation Control Program—Carbon Monoxide.
Ordinance of the City and Borough of Juneau, Serial No. 2008–28.	An Ordinance Amending the Woodsmoke Control Program Regarding Solid Fuel-Fired Burning Devices.	9/8/2008 (city adoption date).	5/9/2013, 78 FR 27071.	Mendenhall Valley PM Limited Maintenance Plan.
Fairbanks North Star Borough Code				
Chapter 21.28—PM 2.5 Air Quality Control Program				
21.28.010	Definitions	3/2/2015 (borough effective date).	9/8/2017, 82 FR 42457.	
21.28.020	Borough listed appliances	1/15/2016 (borough effective date).	9/8/2017, 82 FR 42457.	
21.28.030	Prohibited acts	10/1/2016 (borough effective date).	9/8/2017, 82 FR 42457.	except H and J.
21.28.050	Forecasting exceedances and restrictions in the air quality control zone during an alert.	6/26/2015 (borough effective date).	9/8/2017, 82 FR 42457.	
21.28.060	No other adequate source of heat determination.	8/12/2016 (borough effective date).	9/8/2017, 82 FR 42457.	

(d) EPA approved state source-specific requirements.

EPA-APPROVED ALASKA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Order/permit number	State effective date	EPA approval date	Explanations
None.				

(e) EPA approved nonregulatory provisions and quasi-regulatory measures.

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
State of Alaska Air Quality Control Plan: Volume II. Analysis of Problems, Control Actions				
Section I. Background				
II.I.A. Introduction	Statewide	1/8/1997	12/29/1999, 64 FR 72940.	
II.I.B. Air Quality Control Regions	Statewide	1/8/1997	12/29/1999, 64 FR 72940.	
II.I.C. Attainment/nonattainment Designations.	Statewide	1/8/1997	12/29/1999, 64 FR 72940.	
II.I.D. Prevention of Significant Deterioration Designations.	Statewide	1/8/1997	12/29/1999, 64 FR 72940.	
II.I.E. New Source Review	Statewide	1/8/1997	12/29/1999, 64 FR 72940.	
Section II. State Air Quality Control Program				
II.II. State Air Quality Control Program	Statewide	7/9/2012	10/22/2012, 77 FR 64425.	
Section III. Areawide Pollutant Control Program				
II.III.A. Statewide Carbon Monoxide Control Program.	Statewide	6/5/2008	3/22/2010, 75 FR 13436.	

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
II.III.B. Anchorage Transportation Control Program.	Anchorage	1/4/2002	9/18/2002, 67 FR 58711.	
II.III.B.11. Anchorage Carbon Monoxide Maintenance Plan.	Anchorage	9/20/2011	3/3/2014, 79 FR 11707.	
II.III.B.12. Anchorage Second 10-year Carbon Monoxide Limited Maintenance Plan.	Anchorage	4/22/2013	3/3/2014, 79 FR 11707.	
II.III.C. Fairbanks Transportation Control Program.	Fairbanks	8/30/2001	2/4/2002, 67 FR 5064.	
II.III.C.11. Fairbanks Carbon Monoxide Redesignation and Maintenance Plan.	Fairbanks	9/15/2009	3/22/2010, 75 FR 13436.	
II.III.C.12. Fairbanks Second 10-year Carbon Monoxide Limited Maintenance Plan.	Fairbanks	4/22/2013	8/9/2013, 78 FR 48611.	
II.III.D. Particulate Matter	Statewide	10/15/1991	8/13/1993, 58 FR 43084.	
II.III.D.2. Eagle River PM_{10} Control Plan.	Eagle River	10/15/1991	8/13/1993, 58 FR 43084.	
II.III.D.2.a. Eagle River PM_{10} Limited Maintenance Plan.	Eagle River	9/29/2010	1/7/2013, 78 FR 900.	
II.III.D.3. Mendenhall Valley PM_{10} Control Plan.	Mendenhall Valley	6/22/1993	3/24/1994, 59 FR 13884.	
II.III.D.3.a. Mendenhall Valley PM_{10} Limited Maintenance Plan.	Mendenhall Valley	5/14/2009	5/9/2013, 78 FR 27071.	
II.III.D.4. Interstate Transport of Particulate Matter.	Statewide	2/7/2008	10/15/2008, 73 FR 60957.	
II.III.D.5. Fairbanks North Star Borough $PM_{2.5}$ Control Plan.	Fairbanks North Star Borough.	11/23/2016	9/8/2017, 82 FR 42457.	Fairbanks North Star Borough $PM_{2.5}$ Moderate Area Plan.
II.III.E. Ice Fog	Statewide	1/18/1980	7/5/1983, 48 FR 30623.	
II.III.F. Open Burning	Statewide	4/4/2011	2/14/2013, 78 FR 10546.	
II.III.F.1. In Situ Burning Guidelines for Alaska.	Statewide	4/4/2011	2/14/2013, 78 FR 10546.	Revision 1, August 2008.
II.III.G. Wood Smoke Pollution Control	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
II.III.H. Lead Pollution Control	Statewide	11/15/1983	1/3/1984, 49 FR 67.	
II.III.I. Transportation Conformity	Statewide	4/17/2015	9/8/2015, 80 FR 53735.	
II.III.I.1. Transportation Conformity Supplement.	Statewide	7/29/2015	9/8/2015, 80 FR 53735.	Clarification re: access to public records: AS 40.25.110, AS 40.25.115, and 2 AAC 96.
II.III.J. General Conformity	Statewide	12/05/1994	9/27/1995, 60 FR 49765.	
II.III.K. Area Wide Pollutant Control Program for Regional Haze.	Statewide	4/4/2011	2/14/2013, 78 FR 10546.	
Section IV. Point Source Control Program				
II.IV.A. Summary	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
II.IV.B. State Air Quality Regulations	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
II.IV.C. Local Programs	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
II.IV.D. Description of Source Categories and Pollutants.	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
II.IV.E. Point Source Control	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
II.IV.F. Facility Review Procedures	Statewide	9/12/1988	7/31/1989, 54 FR 31522.	
II.IV.G. Application Review and Permit Development.	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
II.IV.H. Permit Issuance Requirements	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
Section V. Ambient Air Monitoring				
II.V.A. Purpose	Statewide	1/18/1980	4/15/1981, 46 FR 21994.	
II.V.B. Completed Air Monitoring Projects.	Statewide	1/18/1980	4/15/1981, 46 FR 21994.	
II.V.C. Air Monitoring Network	Statewide	1/18/1980; 7/11/1994	4/15/1981, 46 FR 21994; 4/5/1995, 60 FR 17237.	
II.V.E. Annual Review	Statewide	1/18/1980	4/15/1981, 46 FR 21994.	
State of Alaska Air Quality Control Plan: Volume III. Appendices				
Section II. State Air Quality Control Program				
III.II.A. State Air Statutes	Statewide	12/11/2006	3/22/2010, 75 FR 13436.	Except 46.03.170.
III.II.A.1. State Attorney General Opinions on Legal Authority.	Statewide	12/11/2006	3/22/2010, 75 FR 13436.	
III.II.B. Municipality of Anchorage and ADEC Agreements.	Anchorage	4/22/2013	3/3/2014, 79 FR 11707.	
III.II.C. Fairbanks North Star Borough and ADEC Agreements.	Fairbanks	12/11/2006	3/22/2010, 75 FR 13436.	
III.II.D. CAA Section 110 Infrastructure Certification Documentation and Supporting Documents.	Statewide	5/12/2015	5/12/2017, 82 FR 22081.	
III.II.D.1. Attachment 1—Public Official Financial Disclosure (2 AAC 50.010 through 2 AAC 50.200).	Statewide	7/9/2012	10/22/2012, 77 FR 64425.	Approves for purposes of CAA section 128.
III.II.D.2. Attachment 2—Executive Branch Code of Ethics (9 AAC 52.010 through 9 AAC 52.990).	Statewide	7/9/2012	10/22/2012, 77 FR 64425.	Approves for purposes of CAA section 128.
Section III. Areawide Pollutant Control Program				
III.III.A. I/M Program Manual	Statewide	6/5/2008	3/22/2010, 75 FR 13436.	
III.III.B. Municipality of Anchorage	Anchorage	4/22/2013	3/3/2014, 79 FR 11707.	
III.III.C. Fairbanks	Fairbanks	4/22/2013	8/9/2013, 78 FR 48611.	
III.III.D. Particulate Matter	Statewide	10/15/1991	8/13/1993, 58 FR 43084.	
III.III.D.2. Eagle River PM_{10} Control Plan.	Eagle River	9/29/2010	1/7/2013, 78 FR 900.	
III.III.D.3. Control Plan for the Mendenhall Valley of Juneau.	Mendenhall Valley	5/14/2009	5/9/2013, 78 FR 27071.	
III.III.D.5. Fairbanks North Star Borough $PM_{2.5}$ Control Plan.	Fairbanks North Star Borough.	11/23/2016	9/8/2017, 82 FR 42457.	Only with respect to the Fairbanks North Star Borough $PM_{2.5}$ Moderate Area Plan.
III.III.G. Ordinance of the City and Borough of Juneau.	Juneau	11/15/1983	4/24/1984, 49 FR 17497.	
III.III.H. Support Documents for Lead Plan.	Statewide	11/15/1983	1/3/1984, 49 FR 67.	
III.III.K. Area wide Pollutant Control Program for Regional Haze.	Statewide	4/4/2011	2/14/2013, 78 FR 10546.	
Section IV. Point Source Control Program				
III.IV. Point Source Control Program	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
III.IV.1. PSD Area Classification and Reclassification.	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
III.IV.2. Compliance Assurance	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
III.IV.3. Testing Procedures	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
Section V. Ambient Air Monitoring				
III.V. Ambient Air Monitoring	Statewide	11/15/1983	4/24/1984, 49 FR 17497.	
Section VI. Small Business Assistance Program				
III.VI. Small Business Assistance Program.	Statewide	4/18/1994	9/5/1995, 60 FR 46024.	
Infrastructure and Interstate Transport				
Interstate Transport Requirements—1997 Ozone and 1997 $PM_{2.5}$ NAAQS.	Statewide	2/7/2008	10/15/2008, 73 FR 60957.	Approves SIP for purposes of CAA section 110(a)(2)(D)(i) for the 1997 Ozone and 1997 $PM_{2.5}$ NAAQS.
Infrastructure Requirements—1997 Ozone NAAQS.	Statewide	7/9/2012	10/22/2012, 77 FR 64425.	Approves SIP for purposes of CAA sections 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) for the 1997 Ozone NAAQS.
Interstate Transport Requirements—2008 Ozone and 2006 $PM_{2.5}$ NAAQS.	Statewide	3/29/2011	8/4/2014, 79 FR 45103.	Approves SIP for purposes of CAA section 110(a)(2)(D)(i)(I) for the 2008 Ozone and 2006 $PM_{2.5}$ NAAQS.
Interstate Transport Requirements—2008 Lead NAAQS.	Statewide	7/9/2012	8/4/2014, 79 FR 45103.	Approves SIP for purposes of CAA section 110(a)(2)(D)(i)(I) for the 2008 Lead NAAQS.
Infrastructure Requirements—1997 $PM_{2.5}$ NAAQS.	Statewide	7/9/2012	11/10/2014, 79 FR 66651.	Approves SIP for purposes of CAA section 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (H), (J), (K), (L), and (M) for the 1997 $PM_{2.5}$ NAAQS.
Infrastructure Requirements—2006 $PM_{2.5}$ NAAQS.	Statewide	7/9/2012, 3/29/2011	11/10/2014, 79 FR 66651.	Approves SIP for purposes of CAA section 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (H), (J), (K), (L), and (M) for the 2006 $PM_{2.5}$ NAAQS.
Infrastructure Requirements—2008 Ozone NAAQS.	Statewide	7/9/2012, 3/29/2011	11/10/2014, 79 FR 66651.	Approves SIP for purposes of CAA section 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) for the 2008 Ozone NAAQS.
Infrastructure Requirements—2010 NO_2 NAAQS.	Statewide	5/12/2015	5/12/2017, 82 FR 22081.	Approves SIP for purposes of CAA section 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) for the 2010 NO_2 NAAQS.
Infrastructure Requirements—2010 SO_2 NAAQS.	Statewide	5/12/2015	5/12/2017, 82 FR 22081.	Approves SIP for purposes of CAA section 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) for the 2010 SO_2 NAAQS.
Regulations Approved but not Incorporated by Reference				
18 AAC 50.076(g)(11) Solid Fuel-fired Heating Device Fuel Requirements; Registration of Commercial Wood Sellers.	Statewide	11/26/2016	9/8/2017, 82 FR 42457.	
21.28.030.J Prohibited Acts. Penalties	Fairbanks North Star Borough.	10/1/2016 (borough effective date).	9/8/2017, 82 FR 42457.	FNSB Code Chapter 21.28 $PM_{2.5}$ Air Quality Control Program.
21.28.040 Enhanced voluntary removal, replacement and repair program.	Fairbanks North Star Borough.	1/15/2016 (borough effective date).	9/8/2017, 82 FR 42457.	FNSB Code Chapter 21.28 $PM_{2.5}$ Air Quality Control Program.
21.28.070 Voluntary burn cessation program.	Fairbanks North Star Borough.	4/24/2015 (borough effective date).	9/8/2017, 82 FR 42457.	FNSB Code Chapter 21.28 $PM_{2.5}$ Air Quality Control Program.

[FR Doc. 2017–26082 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2015–0034; FRL–9971–78—Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Regional Haze Progress Report; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the October 18, 2017, direct final rule approving the Minnesota regional haze progress report under the Clean Air Act as a revision to the Minnesota State Implementation Plan (SIP).

DATES: The direct final rule published at 82 FR 48425 on October 18, 2017, is withdrawn effective December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov*.

SUPPLEMENTARY INFORMATION: In the direct final rule, EPA stated that if adverse comments were submitted by November 17, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on October 18, 2017 (82 FR 48472). EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

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

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

Dated: November 27, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendment to 40 CFR 52.1220 published in the **Federal Register** on October 18, 2017 (82 FR 48425), on page 48430 is withdrawn effective December 8, 2017.

[FR Doc. 2017–26413 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0268; FRL–9971–69—Region 7]

Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standard; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to adverse comments, the Environmental Protection Agency (EPA) is withdrawing the direct final rule for ''Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standard'' published in the **Federal Register** on October 11, 2017. The direct final rule was an approval of a State Implementation Plan (SIP) revision from the State of Missouri for the 2010 Nitrogen Dioxide (NO_2) National Ambient Air Quality Standard (NAAQS). Section 110 of the CAA requires that each state adopt and submit a SIP for the 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: The direct final rule published at 82 FR 47154 on October 11, 2017 is withdrawn effective December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7016, or by email at *casburn.tracey@epa.gov.*

SUPPLEMENTARY INFORMATION: Due to adverse comments, EPA is withdrawing the direct final rule to approve the states ''infrastructure'' SIP revision for the 2010 NO_2 NAAQS. In the direct final rule published on October 11, 2017 (82 FR 47154), EPA stated that if it received adverse comment by November 13, 2017, the rule would be withdrawn and not take effect. EPA received adverse comments. EPA will address the comments in a subsequent final action based upon the proposed action also published on October 11, 2017 at 82 FR 47170. EPA will not institute a second comment period on this action.

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: November 21, 2017.

James B. Gulliford,

Regional Administrator, Region 7.

■ Accordingly, the amendments to 40 CFR 52.1320 published on October 11, 2017 (82 FR 47154) are withdrawn effective December 8, 2017.

[FR Doc. 2017–26405 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0513; FRL–9971–68—Region 7]

Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standard; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to adverse comments, the Environmental Protection Agency (EPA) is withdrawing the direct final rule for ''Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standard'' published in the **Federal Register** on October 11, 2017. Section 110 of the CAA requires that each state adopt and submit a SIP for the 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: The direct final rule published at 82 FR 47147 on October 11, 2017 is withdrawn effective December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7016, or by email at *casburn.tracey@epa.gov.*

SUPPLEMENTARY INFORMATION: Due to adverse comments, EPA is withdrawing the direct final rule to approve the states ''infrastructure'' SIP revision for the 2012 $PM_{2.5}$ NAAQS. In the direct final rule published on October 11, 2017, (82 FR 47147), EPA stated that if it received adverse comment by November 13, 2017, the rule would be withdrawn and not take effect. The direct final rule was an approval of a State Implementation Plan (SIP) revision from the State of Missouri for the 2012 $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS). The direct final approval action also included the approval of Missouri State Statue section 105.483(5) RSMo 2014, and Missouri State Statue section 105.485 RSMo 2014 into the SIP. These two statutes address aspects of the infrastructure requirements relating to conflicts of interest as found in section 128 of the CAA. EPA received adverse comments. EPA will address the comments in a subsequent final action based upon the proposed action also published on October 11, 2017, at 82 FR 47169. EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

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

Dated: November 21, 2017.

James B. Gulliford,

Regional Administrator, Region 7.

■ Accordingly, the amendments to 40 CFR 52.1320 published on October 11, 2017 (82 FR 47147) are withdrawn effective December 8, 2017.

[FR Doc. 2017–26406 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2015–0656; FRL–9971–58—Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Under the 2008 Ozone National Ambient Air Quality Standard (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Delaware. This revision pertains to reasonably available control technology (RACT) requirements under the 2008 8-hour ozone national ambient air quality standard (NAAQS). Delaware's submittal for RACT for the 2008 ozone NAAQS includes certification that, for certain categories of sources, RACT controls approved by EPA into Delaware's SIP for previous ozone NAAQS are based on currently available technically and economically feasible controls and continue to represent RACT for 2008 8-hour ozone NAAQS implementation purposes; the adoption of new or more stringent regulations or controls that represent RACT control levels for certain other categories of sources; and a negative declaration that certain categories of sources do not exist in Delaware. EPA is approving these revisions to the Delaware SIP addressing 2008 8-hour ozone RACT in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on January 8, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2015–0656. All documents in the docket are listed on the *https://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *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 *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Leslie Jones Doherty, (215) 814–3409, or by email at *jones.leslie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On September 12, 2017 (82 FR 42767), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. In the NPR, EPA proposed approval of Delaware's SIP revision pertaining to the RACT requirements under the 2008 8-hour ozone NAAQS. The formal SIP revision was submitted by Delaware on May 4, 2015.

II. Summary of SIP Revision and EPA Analysis

A. RACT

On May 4, 2015, Delaware submitted a SIP revision to address all the requirements of RACT set forth by the CAA under the 2008 8-hour ozone NAAQS (the 2015 RACT Submission). Specifically, Delaware's 2015 RACT Submission includes: (1) A certification that for certain categories of sources previously adopted nitrogen oxide (NO_X) and volatile organic compound (VOC) RACT controls in Delaware's SIP that were approved by EPA under the 1979 1-hour and 1997 8-hour ozone NAAQS are based on the currently available technically and economically feasible controls, and continue to represent RACT for implementation of the 2008 8-hour ozone NAAQS; (2) the adoption of new or more stringent regulations or controls that represent RACT control levels for certain categories of sources; and (3) a negative declaration that certain control technique guidelines (CTGs) or non-CTG major sources of VOC and NO_X sources do not exist in Delaware.

EPA has reviewed Delaware's 2015 RACT Submission and finds Delaware's certification of the RACT regulations for major sources of VOC and NO_X previously approved by EPA for the 1-hour and 1997 8-hour ozone NAAQS continue to represent RACT-level controls for the source categories for the 2008 8-hour ozone NAAQS. EPA finds that Delaware's major stationary source VOC and NO_X regulations represent the lowest emission limits based on currently available and economically feasible control technology for these source categories. EPA also finds that Delaware's SIP implements RACT with respect to all sources of VOCs covered by a CTG issued prior to July 20, 2014 and all major stationary sources of VOC and NO_X via Delaware's regulations and case-by-case RACT. EPA accepts

Delaware's negative declarations that the following VOC CTG source categories do not exist in Delaware: Manufacture of pneumatic rubber tires; wood furniture manufacturing operations; shipbuilding and ship repair operations (surface coating); and fiberglass boat manufacturing materials. EPA's review indicates that Delaware's 2015 RACT Submission meets the RACT requirements for the 2008 8-hour ozone NAAQS for applicable CTG source categories and major stationary sources of VOC and NO_X to address sections 182(b), 182(f) and 184(b)(2) of the CAA.

With respect to the previous case by case RACT determinations submitted by Delaware and approved by EPA for the Delaware SIP, the CAA section 110(l) states ''The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any applicable requirement of the CAA.'' EPA finds that the removal of the emission limits for (1) the Polyhydrate Alcohol Catalyst Regenerative process SPI Polyols, Incorporated, (2) the sulfuric acid process and inter-stage absorption system at General Chemical Corporation and (3) the metallic nitrite process at General Chemical Corporation from the Delaware SIP will not interfere with attainment of any NAAQS or with RFP or any applicable requirement of the CAA because these sources have permanently shut down and thus emissions have been completely eliminated. EPA finds the NO_X RACT determination for CitiSteel USA, Incorporated, Electric Arc Furnace (EAF) continues to represent the lowest emission limitation that is reasonably available considering technological and economic feasibility for this source. With respect to the Fluid-Coking Unit (FCU) and Fluid Catalytic Cracking Unit (FCCU) at the Delaware City Refinery Company, EPA finds that the emission limits, compliance requirements and recordkeeping and reporting requirements established by Delaware represent RACT level of control for these units.

Other specific requirements of Delaware's SIP submission addressing 2008 8-hour ozone RACT and the rationale for EPA's proposed action are explained in the NPR and technical support document (TSD) and will not be restated here.

B. RACT and the EPA Startup, Shutdown, and Malfunction (SSM) SIP Call

On May 22, 2015, the EPA Administrator signed a final action, EPA's SSM SIP Call (formally, the ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction''). 80 FR 33839. As discussed in the NPR, Delaware relies upon both Regulation 1124 and Regulation 1142 to meet its RACT obligations for the 2008 ozone NAAQS. Therefore, our review of the Delaware 2015 RACT Submission necessarily included our review of Regulation 1124 and 1142, which were subject to EPA's SSM SIP Call because at the time EPA found that the provisions gave the State discretion to create exemptions allowing excess emissions during startup and shutdown. In 2016, Delaware revised Regulations 1124 and 1142 in the State law to remove the provisions identified by EPA in EPA's SSM SIP Call, and Delaware subsequently submitted, on November 21, 2016, a SIP revision to address EPA's SSM SIP Call for Regulation 1124 (subsection 1.4) and Regulation 1142 (subsection 2.3.1.6). EPA has not yet taken final action on that submittal; any action on Delaware's November 21, 2016 SSM SIP revision would be done through a separate rulemaking action.

As stated in the NPR, the EPA is actively reviewing the SSM SIP Call. Therefore, in the NPR, EPA proposed to approve the 2015 RACT Submission under two alternative bases.

EPA proposed to approve Delaware's 2015 RACT Submission on the basis that either (1) a change in EPA's SSM policy and withdrawal of the SSM SIP Call as to Delaware Regulations 1124 and 1142 would occur, or (2) a separate final rulemaking action approving the revised versions of Regulations 1124 and 1142 as revised in Delaware's response to the SSM SIP Call would occur. Under either basis, EPA proposed to find that Delaware's 2015 RACT Submission is fully consistent with CAA requirements for RACT. EPA was clear that either alternative basis for approval of the Delaware RACT assumed a separate Agency action. EPA did not propose to effectuate either action in this rulemaking. Therefore, EPA did not consider those issues open for public comment as part of this rulemaking action. Any comments filed on this rulemaking that relate to the possibility of EPA changing the SSM Guidance generally, a possible withdrawal of EPA's SSM SIP Call as to Delaware Regulations 1124 and 1142, or a possible action by EPA on Delaware's SIP submittal in response to the SSM SIP call are outside the scope of this rulemaking, which is limited to EPA's action on Delaware's 2015 RACT Submission.

In the proposal, EPA made clear that under either alternative scenario regarding the SSM SIP Call, EPA would deem approval of Delaware's RACT SIP appropriate. Therefore, although EPA has not yet taken separate action related to the SSM SIP Call (to either withdraw the SIP Call as to Regulations 1124 and 1142 or to act on Delaware's SSM SIP submittal), we are approving today Delaware's 2015 RACT Submission because it meets RACT requirements under the CAA for the 2008 8-hour ozone NAAQS for the reasons discussed herein and as proposed in the NPR and in the TSD for this rulemaking.[1] We do not believe the SSM SIP Call prevents our final approval of the 2015 RACT Submission as it otherwise meets all CAA RACT requirements. First, as discussed in the NPR, because EPA is reviewing the SSM SIP Call, if EPA later withdraws portions that apply to Delaware's regulations, the regulations Delaware relies upon for RACT in Regulations 1124 and 1142 fully meet CAA requirements including requirements for emission limitations as well as RACT in sections 110, 172, 182 and 184 of the CAA. Alternatively, if EPA concludes its review and implements the SSM SIP Call, Delaware has already submitted a SIP revision in November 2016 that comprises revised versions of Regulations 1124 and 1142 that lack the director discretion provisions that EPA said in the SSM SIP Call were inconsistent with the CAA. EPA is approving the 2015 RACT Submission because, under the first scenario, if EPA withdraws its SSM SIP Call with respect to Delaware, Delaware's regulations in the SIP would be in compliance with CAA requirements, and, under the second scenario, if EPA continues to implement the SSM SIP Call, Delaware has either already submitted a revision complying with CAA requirements or, to the extent EPA determines that the already submitted revision is inadequate, Delaware will be required to submit a new or supplemental revision to address any deficiencies.

III. Public Comments and EPA's Responses

EPA received adverse public comments on the NPR. EPA has summarized the comments and provides responses to the adverse comments below. All other comments received

[1] The TSD is available in the docket for this rulemaking and online at *www.regulations.gov.*

were not specific to this action and thus are not addressed here.

Comment: One comment received from the SSM Coalition states that the CAA does not require nor authorize the EPA to declare SIPs to be inadequate due to provisions exempting or providing alternative requirements during periods of startup, shutdown or malfunction. The commenter notes that the EPA's SSM SIP Call rule states that the ''SSM SIP Policy'' is not binding on EPA and thus constitutes guidance. As guidance, this SSM Policy as of 2015 does not bind the states, the EPA nor other parties, but it does reflect the EPA's interpretation of CAA statutory requirements. The commenter refers to comments it previously filed on EPA's SSM SIP Call rulemaking. The commenter states EPA is free to approve the Delaware RACT provisions without first acting on provisions identified in the SSM SIP Call as the commenter asserts the state has the discretion to include SSM provisions in its SIP. The commenter also stated EPA should revise its SSM SIP policy and withdraw the SSM SIP Call as to Delaware before approving the 2015 RACT Submission.

Response: As EPA stated in the NPR, any comments filed on this rulemaking that relate to the possibility of EPA changing the SSM Guidance generally or a possible withdrawal of EPA's SSM SIP Call as to Delaware Regulations 1124 and 1142 are outside the scope of this rulemaking, which is limited to EPA's action on Delaware's 2015 RACT Submission. Any EPA action to either withdraw the SSM SIP Call as to Delaware Regulations 1124 and 1142 or act on Delaware's SSM SIP submittal will be a separate Agency action.

Comment: Two commenters, the Environmental Integrity Project (EIP) [2] and an anonymous commenter, state that the Delaware provisions identified in EPA's SSM SIP Call contain impermissible exemptions to emission limitations under the CAA and, therefore, must be corrected before EPA can approve the Delaware 2015 RACT Submission. Commenters argue that approving the Delaware regulations as RACT with SSM exemptions in them violates the CAA requirement that SIPs include enforceable limitations which must apply at all times. Specifically, CAA sections 110(a)(2)(A) and 302(k) require SIPs to include enforceable emission limitations, which must apply on a continuous basis. Contrary to these requirements, the provisions in Delaware Regulations 1124 and 1142 give Delaware unbounded discretion to allow exemptions from SIP limits and therefore would not be emissions limitations that apply on a ''continuous'' basis. These provisions also interfere with the applicable requirements of the CAA because they allow Delaware to alter SIP limits through a process that is contrary to CAA section 110(i). Section 110(i) provides that revisions to SIP provisions take place through specified routes, including formal SIP revision processes. The provisions in Delaware Regulations 1124 and 1142, however, allow the state to alter the SIP limits through a permit process that does not fall into any of the allowed routes for SIP revision under section110(i) and does not require EPA approval. Similarly, the commenter states that the SSM exemptions in Regulations 1124 and 1142 are contrary to the CAA requirements for nonattainment areas in that section 172(c)(6) of the CAA requires nonattainment SIP provisions to include enforceable emission limitations to provide for attainment of the NAAQS, and these limitations required for nonattainment areas by CAA section 172 must also apply on a continuous basis and be enforceable to also meet CAA section 110(a)(2) requirements. The commenter asserted EPA made no claim that the Delaware provisions which include SSM provisions constitute RACT. Lastly, the commenter states that EPA's approval of the 2015 RACT Submission would be otherwise arbitrary and capricious as the SSM provisions in Delaware Regulations 1124 and 1142 would undermine enforcement of emissions limitations by EPA or citizens as the Delaware provisions identified in the SSM SIP Call would create alternative limits which are not enforceable or would interfere with CAA requirements for continuous emission limitations. The commenter asserts that emission limitations or exemptions from limits established outside the SIP revision process would interfere with attainment and maintenance of the NAAQS and thus with air quality in Delaware. The commenter asserts that if EPA approves the 2015 RACT Submission, EPA must acknowledge its departure from the SSM SIP Call and SSM policy and explain its position; otherwise, action approving the Delaware 2015 RACT Submission would be arbitrary and capricious. Finally, the commenter stated EPA cannot approve the Delaware regulations as meeting RACT while these regulations were found impermissible under the SSM SIP Call on either the hope SSM policy is changed or on the assumption Delaware's SSM November 2016 SIP revision is adequate. The commenter supports this statement because portions of Delaware Regulations 1124 and 1142 were found ''substantially inadequate'' to meet CAA requirements which would include RACT. The commenter says EPA assuming Delaware's November 2016 SIP revision addressing SSM provisions is adequate would preclude public participation and predetermines the outcome of rulemaking on that SIP. The commenter said EPA must first resolve SSM policy before approving the 2015 RACT Submission or address SSM policy before acting and take action on the November 2016 SIP revision addressing the SSM SIP Call.

Response: EPA notes that commenters' statements are repeating arguments made in support of the SSM SIP Call. As stated previously, such comments relating to the SSM SIP Call and its statutory and policy basis in accordance with the CAA are outside the scope of this rulemaking. EPA's action here is limited to EPA's action on Delaware's 2015 RACT Submission. EPA explained above how we are approving the 2015 RACT Submission with the provisions which were identified in the SSM SIP Call as we find the Delaware regulations address RACT and CAA requirements for emission limitations. Thus, we disagree with the commenter that we cannot approve this 2015 RACT Submission without first ''settling'' SSM policy issues. If EPA, after concluding its reviewing of the SSM SIP Call, acts to withdraw the SSM SIP Call, then no further action is needed for the versions of Regulation 1124 and 1142 in the Delaware SIP as the Delaware regulations fully address RACT for 2008 ozone. If EPA after its review continues implementing the SSM SIP Call, EPA will act in a separate rulemaking on Delaware's SIP revision submittal which, if approved, would remove from the Delaware SIP the provisions related to SSM in Regulations 1124 and 1142.

Contrary to the commenter's assertion that EPA made ''no claim'' that Delaware's emission limits and control measures containing SSM constitute RACT, EPA explained in detail in both the NPR and in the TSD prepared in support of the rulemaking how Regulations 1124 and 1142 address RACT requirements for the 2008 ozone NAAQS.[3] EPA's explanation and analysis outlined how the Delaware regulations and measures reflect the currently available technically and

[2] EIP filed comments on behalf of EIP, Sierra Club, and the Center for Biological Diversity.

[3] The TSD is available in the docket for this rulemaking and on line at *www.regulations.gov.*

economically feasible controls and the lowest achievable emission limitations for major stationary sources required to have NO_X and VOC RACT. EPA also explained in detail in the NPR and TSD how provisions in Regulation 1124 met requirements for CTGs to be in the Delaware SIP as required by CAA sections 182 and 184.

Finally, as specifically stated in the NPR, EPA noted that we cannot prejudge a final approval on Delaware's November 2016 SSM SIP Call submission. EPA explained in the NPR we would take public comment on any proposal to act on that November 2016 SIP and that if EPA would change direction based on comments received on any such proposed rulemaking to approve that SIP submission, we would not be able to approve the SSM SIP Call submission.

III. Final Action

EPA is approving the State of Delaware's May 4, 2015 SIP revision submittal (the 2015 RACT Submission) which addresses the 2008 8-hour ozone NAAQS RACT requirements as a revision to the Delaware SIP.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of source specific RACT determinations under the 2008 8-hour ozone NAAQS for certain major sources of NO_X and VOC emissions in the State of Delaware as described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[4]

[4] 62 FR 27968 (May 22, 1997).

V. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

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 February 6, 2018. 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 approving the Delaware RACT requirements under the 2008 8-hour ozone NAAQS 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 22, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart I—Delaware

■ 2. Amend § 52.420 by:

■ a. Revising the table in paragraph (d); and

■ b. In the table in paragraph (e), adding an entry entitled ''Reasonably Available Control Technology under 2008 8-hour ozone National Ambient Air Quality Standard'' at the end of the table.

The revision and addition reads as follows:

§ 52.420 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED DELAWARE SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit number	State effective date	EPA approval date	Additional explanation
Getty Oil Co	75–A–4	8/5/1975	3/7/1979, 44 FR 12423	§ 52.420(c)(11).
Phoenix Steel Co.—Electric Arc Furnaces Charging & Tapping #2.	77–A–8	12/2/1977	7/30/1979, 44 FR 25223.	§ 52.420(c)(12).
Delmarva Power & Light—Indian River.	89–A–7/APC 89/197	2/15/1989	1/22/1990, 55 FR 2067	§ 52.420(c)(38).
Citisteel	Secretary's Order No. 2000–A–0033.	7/11/2000	6/14/2001, 66 FR 32231.	Electric Arc Furnace—Approved NO_X RACT Determination
Delaware City Refinery Company.	Secretary's Order No. 2014–A–0014.	7/18/2014	12/8/2017, [Insert **Federal Register** citation].	(1) Fluid-coking unit (FCU) (2) fluid-catalytic-cracking unit (FCCU)—Approved Nitrogen Oxide Reasonably Available Control Technology Determinations.

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Reasonably Available Control Technology under 2008 8-hour ozone National Ambient Air Quality Standard.	Statewide	5/4/2015	12/8/2017, [Insert **Federal Register** citation].	

[FR Doc. 2017–26301 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2016–0593; FRL–9971–77—Region 5]

Air Plan Approval; Illinois; Redesignation of the Chicago and Granite City Areas to Attainment of the 2008 Lead Standard; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the October 18, 2017, direct final rule approving the Illinois Environmental Protection Agency's request to redesignate the Chicago and Granite City nonattainment areas to attainment for the 2008 national ambient air quality standards for lead, the state's maintenance plans for the areas, and rules applying emission limits and other control requirements to lead sources in the areas.

DATES: The direct final rule published at 82 FR 48448 on October 18, 2017, is withdrawn effective December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: In the direct final rule, EPA stated that if adverse comments were submitted by November 17, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on October 18, 2017 (82 FR 48475). EPA will not institute a second comment period on this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: November 27, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

■ Accordingly, the amendments to 40 CFR 52.720 and 81.314 published in the **Federal Register** on October 18, 2017 (82 FR 48448), are withdrawn effective December 8, 2017.

[FR Doc. 2017–26417 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2017–0256; FRL–9971–74—Region 5]

Air Plan Approval; Ohio; Redesignation of the Fulton County Area to Attainment of the 2008 Lead Standard; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the October 18, 2017, direct final rule approving the State of Ohio's request to redesignate the Fulton County nonattainment area (Fulton County) to attainment of the 2008 National Ambient Air Quality Standards for lead.

DATES: The direct final rule published at 82 FR 48442 on October 18, 2017, is withdrawn effective December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: In the direct final rule, EPA stated that if adverse comments were submitted by November 17, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on October 18, 2017 (82 FR 48474). EPA will not institute a second comment period on this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

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

Dated: November 27, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

■ Accordingly, the amendments to 40 CFR 52.1870, 52.1893, and 81.336 published in the **Federal Register** on October 18, 2017 (82 FR 48442), on page 48448 are withdrawn effective December 8, 2017.

[FR Doc. 2017–26415 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0536; FRL–9970–38]

Ziram; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of ziram in or on hazelnut. United Phosphorus, Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective December 8, 2017. Objections and requests for hearings must be received on or before February 6, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0536, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0536 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 6, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0536, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online

instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of November 30, 2016 (81 FR 86312) (FRL–9954–06), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6F8493) by United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406. The petition requested that 40 CFR 180 be amended by establishing a tolerance for residues of the fungicide ziram, zinc dimethyldithiocarbamate, in or on filbert (hazelnut) at 0.1 parts per million (ppm). That document referenced a summary of the petition prepared by United Phosphorus, Inc., the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the tolerance value to add an additional significant figure and also revised the commodity term from filbert (hazelnut) to hazelnut. The reason for this change is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for ziram including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with ziram follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The primary target organs of ziram are the nervous system, liver, and thyroid. A single oral dose causes neurological impairments (ataxia and slight impaired gait) while repeated short-term exposure results in inhibition of brain cholinesterase and brain neurotoxic esterase in rats. Developmental neurotoxic effects were not observed in offspring of the most recent DNT study. Liver histopathology was identified throughout the database at various doses in the rat subchronic and chronic studies and the mouse carcinogenicity study, and at times is accompanied by increases in hepatic serum enzyme levels. Chronic studies also included thyroid effects, specifically follicular cell hypertrophy and c-cell carcinoma. When ziram was administered orally in rats, it was rapidly absorbed, distributed, and excreted via urine, expired air, and excreted feces within 72 hours. Small amounts were widely distributed in the body with the highest tissue concentrations in the liver, fat, kidney, spleen, lung, thyroid, and adrenals. Metabolites were not identified.

There is no quantitative or qualitative evidence of increased susceptibility following *in utero* exposure to rats and rabbits and following pre-/postnatal exposure to rats in the developmental, reproduction, and developmental neurotoxicity studies with ziram. There was an apparent quantitative evidence of increased susceptibility identified in an older unacceptable developmental neurotoxicity study in rats. Increased motor activity was observed in the offspring at the lowest dose tested, while the maternal rats exhibited reduced body weights and/or body weight gains, and decreased food consumption during gestation and lactation at the highest dose tested. However, this study was classified as unacceptable since brain morphometric analysis—a key evaluation in DNTs—was not conducted. A second DNT study was submitted and does not demonstrate quantitative susceptibility. This second DNT identifies a clear NOAEL and includes brain morphometric data on post-natal day 21 and 72 rats with no treatment-related effects.

Based on the occurrence of benign tumors (hemangiomas) in male CD (SD) BR male rats, supported by an increasing trend in preputial gland adenomas in male F344 rats. However, since no hemangiosarcomas or preputial gland carcinomas were observed, no treatment-related increase in tumors was identified in the female CD(SD) BR or female F344/N rat, and because ziram was not carcinogenic to CD–1 mice (both genders), and there is no concern regarding mutagenicity, the EPA has determined that quantification of risk using a non-linear approach (*i.e.*, RfD) will adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to ziram.

Ziram has low acute toxicity via the dermal and oral routes. However, ziram is classified as Toxicity Category I for eye irritation and a Category II for the acute inhalation study. Ziram is also a moderate dermal sensitizer. Specific information on the studies received and the nature of the adverse effects caused by ziram as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Ziram. Human Health Risk Assessment for Proposed New Use on Hazelnuts (Filberts) in Tree Nuts Crop Group 14–12'', pages 12–17, in docket ID number EPA–HQ–OPP–2016–0536.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards

that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for ziram used for human risk assessment is shown in the Table of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR ZIRAM FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (All Populations)	LOAEL = 15 mg/kg/day UF_A = 10x. UF_H = 10x FQPA SF (UF_L) = 3x	Acute RfD = 0.05 mg/kg/day. aPAD = 0.05 mg/kg/day.	Acute Neurotoxicity in rat (MRID 43362801. LOAEL = 15 mg/kg/day based on ataxia and slight impairment of gait. NOAEL not established.
Chronic dietary (All populations)	NOAEL = 1.6 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.016 mg/kg/day. cPAD = 0.016 mg/kg/day.	52-Week Oral Toxicity in dog (MRID 42823901). LOAEL = 6.6 mg/kg/day based on liver histopathology (aggregates of Kupffer cells and macrophages, increased foci of degenerate hepatocytes, infiltration of inflammatory cells around central veins, and increased centrilobular fibrocytes) in males.
Short term oral (Adult only)	NOAEL= 7.5 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Residential LOC for MOE = 100.	Prenatal Oral Developmental in rabbit (MRID 00161316). LOAEL = 15 mg/kg/day based on increased incidence of resorptions and post implantation loss.
Dermal Short and Intermediate term (Adult only).	Oral study ..... NOAEL= 7.5 mg/kg/day (dermal absorption rate = 1.0% *). UF_A = 10x UF_H = 10x FQPA SF = 1x	Residential and Occupational LOC for MOE = 100.	Prenatal Oral Developmental in rabbit (MRID 00161316). LOAEL = 15 mg/kg/day based on increased incidence of resorptions and post implantation loss.
Inhalation Short and Intermediate term.	Oral study ..... NOAEL= 7.5 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Residential and Occupational LOC for MOE = 100.	Prenatal Oral Developmental in rabbit (MRID 00161316) LOAEL = 15 mg/kg/day based on increased incidence of resorptions and post implantation loss.
Cancer (Oral, dermal, inhalation).	EPA has determined that a nonlinear approach is appropriate and that the cRfD will be protective of cancer effects.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). UF_L = use of a LOAEL to extrapolate a NOAEL.

* The dermal absorption rate of 1.0% was derived from the ratio of LOAELs in the rabbit oral developmental study and the 21-day dermal rabbit study (RED, 2003).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to ziram, EPA considered exposure under the petitioned-for tolerances as well as all existing ziram tolerances in 40 CFR 180.116. EPA assessed dietary exposures from ziram in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for ziram. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) Nationwide Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA) conducted from 2003–2008. As to residue levels in food, the acute dietary analysis was obtained from the Dietary Exposure

Evaluation Model using the Food Commodity Intake Database (DEEM–FCID; version 3.16). The assessment is based on the maximum percent crop treated estimates for some commodities and assumed 100% crop treated for all others. The analyses also assumed a distribution of residues based on field trial data or the Food and Drug Administration (FDA) monitoring data.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA Nationwide Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA) conducted from 2003–2008. As to residue levels in food, the chronic dietary analysis was obtained from the Dietary Exposure Evaluation Model using the Food Commodity Intake Database (DEEM–FCID; version 3.16). The assessment is based on the average percent crop treated estimates for some commodities and assumed 100% crop treated for all others. The analyses also assumed a distribution of residues based on field trial data or the FDA monitoring data.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk to ziram. Cancer risk was assessed using the same exposure estimates as discussed in Unit III.C.1.ii., *chronic exposure.*

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- *Condition a:* The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- *Condition b:* The exposure estimate does not underestimate exposure for any significant subpopulation group.
- *Condition c:* Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency estimated the maximum PCT for existing uses as follows in the acute dietary risk assessment: Almonds: 35%; apples: 20%; apricots: 70%; blueberries: 40%; cherries: 15%; grapes: 10%; nectarines: 65%; peaches: 40%; pears: 35%; pecans: 2.5%; and tomatoes: 6%.

The following average percent crop treated estimates were used in the chronic dietary risk assessments for the following crops that are currently registered for ziram: almonds: 15%; apples: 15%; apricots: 35%; blueberries: 30%; cherries: 5%; grapes: 5%; nectarines: 45%; peaches: 25%; pears: 15%; pecans: 2.5%; and tomatoes: 6%.

For strawberries, the Agency calculated percent detectable residue values from the FDA samples and used that number (4.5%) in the acute and chronic evaluations.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than 5%. In those cases, EPA rounds to either 2.5% or 1%, whichever is appropriate. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%, except when the maximum PCT is less than 5%; then EPA uses 2.5%.

The Agency believes that the three conditions discussed in Unit III.C.1. iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which ziram may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for ziram in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of ziram. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Pesticide Water Calculator (PWC 1.52) and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of ziram for acute exposures are estimated to be 103.7 parts per billion (ppb) for surface water and <0.001 ppb for ground water. For chronic exposures for non-cancer assessments are estimated to be 2.74 ppb for surface water and <0.001 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 103.7 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 2.74 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control,

indoor pest control, termiticides, and flea and tick control on pets).

There are no conventional residential uses of ziram. However, there is a registered use of exterior latex paint, an antimicrobial use, for ziram which could result in residential exposures. The registered antimicrobial use in exterior latex paint (in-can-preservative) may be used by a homeowner and applied either by airless sprayer or by brush. Short-term aggregate risk assessments were previously conducted for adults only; the sole registered scenario resulting in residential exposures. Residential handler risks are not of concern for the loading/application of exterior latex paints either by airless spray or brush (*i.e.,* the combined dermal and inhalation MOE is >100). Residential post-application inhalation exposures are expected to be negligible due to the low vapor pressure of ziram (1.4E–7 mmHg at 25 °C) and low dermal contact potential to treated surfaces.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

The Agency reevaluated the existing data suggesting that the dithiocarbamates can be grouped based on a common mechanism of toxicity. The dithiocarbamates included were mancozeb, maneb, metiram, Na-dimethyldithiocarbamate, ziram, thiram, ferbam, and metam sodium. EPA concluded that the available evidence shows that the neuropathology induced by treatment of rats with the dithiocarbamates cannot be linked with the formation of carbon disulfide because: (a) The neuropathology induced by the dithiocarbamates is not consistent with the neuropathology induced by exposure to carbon disulfide, (b) there is a lack of concordance between doses of the dithiocarbamates that induce neuropathology and the amounts of carbon disulfide formed during metabolism and (c) there is evidence that more than one mechanism of toxicity could be operative that accounts for dithiocarbamate induced neuropathology because there is no consistent pattern of neuropathology reported in studies with this subgroup of carbamates. Accordingly, the available evidence does not support grouping the dithiocarbamates based on a common mechanism for neuropathology. For the purposes of this tolerance action, therefore, EPA has assumed that ziram does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no quantitative or qualitative evidence of increase in susceptibility following *in utero* exposure to rats and rabbits and following pre-/postnatal exposure to rats in the developmental, the reproduction, and the acceptable DNT studies with ziram.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for all scenarios except acute dietary, for which the FQPA SF is being reduced to 3X. That decision is based on the following findings:

i. The toxicity database for ziram is adequate for evaluating and characterizing its toxicity, except for where a NOAEL is extrapolated from a LOAEL in the acute neurotoxicity study used as the endpoint for assessing acute dietary exposure. EPA has determined that a 3x FQPA SF to account for the extrapolation is sufficient to protect infants and children because of the impacts observed at the LOAEL were minimal and other studies did not show effects occurring at similar doses.

ii. There is indication that ziram is a neurotoxic chemical and an acceptable developmental neurotoxicity study has been submitted. A single oral dose resulted in ataxia in both sexes and slight impaired gait in males. Repeated short term oral exposure resulted in inhibition of brain cholinesterase in both sexes and brain neurotoxic esterase activity in male rats. Developmental neurotoxic effects were not observed in offspring of the most recent DNT study. Chronic dietary exposure in adult rats resulted in atrophy and reductions in crural muscle weights. Crural muscles function in the motion of the rodent's grasping foot claw.

iii. There is no evidence that ziram results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies, in young rats in the 2-generation reproduction study, or in the most recent DNT study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary and non-dietary exposure estimates were based on several conservative assumptions and will not underestimate the exposure and risk. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to ziram in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by ziram.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to ziram will occupy 26% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to ziram from food and water will utilize 1.4% of the cPAD for Children 1–2, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use

patterns, chronic residential exposure to residues of ziram is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Ziram is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to ziram.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 170 for adults. Because EPA's level of concern for ziram is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no intermediate-term adverse effect was identified, ziram is not expected to pose an intermediate-term risk.

5. *Aggregate cancer risk for U.S. population.* As discussed in Unit III.A., the Agency has determined that quantification of risk using a non-linear approach (*i.e.,* RfD) will adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to ziram. Because the Agency's assessment indicates that aggregate exposure will be below the Agency's level of concern for chronic risk, the Agency concludes such exposure will not pose an aggregate cancer risk.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to ziram residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (colorimetric method, Method I) is available to enforce the tolerance expression.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established a MRL for ziram.

C. Revisions to Petitioned-For Tolerances

EPA revised the 0.1 ppm value to 0.10 ppm based on the practice to add the additional significant figure to provide clarity about permissible residues. In addition, the commodity term for the tolerance was revised from filbert (hazelnut) to hazelnut to be consistent with the general food and feed commodity vocabulary EPA uses for tolerances and exemptions.

V. Conclusion

Therefore, tolerance is established for residues of ziram, zinc dimethyldithiocarbamate, in or on hazelnut at 0.10 ppm.

In addition, EPA is making a number of housekeeping adjustments to this rule. First, consistent with the Agency's policy for drafting the tolerance expression, EPA is revising the tolerance expression to clarify that the tolerance covers residues of the parent as well as metabolites and degradates of the pesticide chemical in accordance with section 408(a)(3) of the FFDCA, and to clarify how residues of the chemical are to be measured to determine compliance with the tolerance levels. Second, because the tolerance for blackberries has expired by its terms, EPA is removing that tolerance from section 180.116. Finally, because no current tolerances have an expiration date, the third column is not necessary, so EPA is removing that column.

VI. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology

Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 9, 2017.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.116, revise paragraph (a) to read as follows:

§ 180.116 Ziram; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide ziram (zinc dimethyldithiocarbamate), including its metabolites and degradates, in or on the commodities in the table below as a result of the application of ziram. Compliance with the tolerance levels specified below is to be determined by measuring total dithiocarbamates, determined as CS2, evolved during acid digestion and expressed as zinc ethylenebisdithiocarbamate.

Commodity	Parts per million
Almond	[1] 0.10
Apple	[1] 7.0
Apricot	[1] 7.0
Blueberry	[1] 7.0
Cherry, sweet	[1] 7.0
Cherry, tart	[1] 7.0
Grape	7.0
Hazelnut	0.10
Huckleberry	7.0
Peach	7.0
Pear	[1] 7.0
Pecan	0.10
Quince	[1] 7.0
Strawberry	7.0
Tomato	[1] 7.0

[1] Some of these tolerances were established on the basis of data acquired at the public hearings held in 1950 (formerly § 180.101) and the remainder were established on the basis of pesticide petitions presented under the procedure specified in the amendment to the Federal Food, Drug, and Cosmetic Act by Public Law 518, 83d Congress (68 Stat. 511).

* * * * *

[FR Doc. 2017–25713 Filed 12–7–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0095; FRL–9970–39]

Indoxacarb; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of indoxacarb in or on corn, field, forage; corn, field, stover; corn, field, grain. E. I. du Pont de Nemours and Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective December 8, 2017. Objections and requests for hearings must be received on or before February 6, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0095, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0095 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 6, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified

by docket ID number EPA–HQ–OPP–2017–0095, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of June 8, 2017 (82 FR 26641) (FRL–9961–14), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6F8536) by E. I. du Pont de Nemours and Company, 974 Centre Road, Wilmington, Delaware 19805. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the insecticide indoxacarb, [(S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)-phenyl] amino]carbonyl]indeno[1,2e] [1,3,4]oxadiazine-4a(3H)-carboxylate], and [(R)-methyl 7 chloro-2,5-dihydro-2[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-e][1,3,4] oxadiazine-4a(3H)-carboxylate], in or on corn, field, forage at 10 parts per million (ppm); corn, field, stover at 15 ppm; corn, field, aspirated grain fractions at 45 ppm; corn, field flour at 0.07 ppm; corn, field, meal at 0.03 ppm; corn, field, oil at 0.05 ppm; corn, field, grain at 0.02 ppm. That document referenced a summary of the petition prepared by E. I. du Pont de Nemours and Company, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based on available information, EPA is establishing some tolerances that vary from what the petitioner requested. The reasons for these changes are discussed in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for indoxacarb including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with indoxacarb follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The most common effects resulting from exposure to indoxacarb (defined by the lowest-observed-adverse-effect-level (LOAEL)) were non-specific, and included decreases in body weight, food consumption, and food efficiency. Indoxacarb also affected the hematopoietic system by decreasing the red blood cell count, hemoglobin, and hematocrit in rats, dogs, and mice.

There was no evidence of reproductive effects in rats resulting from exposure to indoxacarb. There was no evidence of increased susceptibility in developing fetuses or in offspring following prenatal and/or postnatal exposure to indoxacarb in rats or rabbits. There was no evidence of increased susceptibility in the young in the developmental neurotoxicity study in rats. Neurotoxicity was observed in rats and mice, but at doses much higher than those selected for points of departure (PoDs) (which are based on changes in body weight, food consumption and changes in hematology). There is no evidence indoxacarb is carcinogenic, teratogenic, mutagenic, or immunotoxic.

Specific information on the studies received and the nature of the adverse effects caused by indoxacarb as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the documents, Indoxacarb: Human Health Risk Assessment for Indoxacarb to Support the Proposed New Uses on Corn (Field, Pop, and Grown for Seed) in docket ID number EPA–HQ–OPP–2017–0095 and Indoxacarb: Human Health Draft Risk Assessment for Indoxacarb to Support Registration Review and the Proposed New Use for Controlling Ants at Ornamental Nurseries, Sod Farms, and Livestock Corrals of non-Food Bearing Animals in docket ID number EPA–HQ–OPP–2013–0367.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (PoD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological PoD is used as the basis for derivation of reference values for risk assessment. PoDs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the PoD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk

assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for indoxacarb used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR INDOXACARB FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (All populations)	NOAEL = 12 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 0.12 mg/kg/day. aPAD = 0.12mg/kg/day.	Acute oral rate neurotoxicity study LOAEL = 50 mg/kg/day based on decreased body weight and body-weight gain in females (MP062).
Chronic dietary (All populations)	NOAEL= 2.0 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.02 mg/kg/day. cPAD = 0.02 mg/kg/day.	Weight of evidence approach was used from four studies: (1) Subchronic toxicity study—rat (MP062). MRID 44477129. LOAEL = 6.0 (M), 3.8 (F) mg/kg/day based on decreased body weight, body-weight gain, food consumption and food efficiency.
			(2) Subchronic neurotoxicity study—rat (MP062). MRID 44477135. LOAEL = 5.6 (M), 3.3 (F) mg/kg/day based on decreased body weight and alopecia. (3) Chronic/carcinogenicity study—rat (JW062). MRID 44477145. LOAEL = 10 (M), 3.6 (F) mg/kg/day based on decreased body weight, body-weight gain, and food consumption and food efficiency; decreased HCT, HGB and RBC at 6 months in F only. (4) Two-generation rat reproduction study (JW062). MRID 44477144. LOAEL = 4.4 mg/kg/day based on decreased body weights, body-weight gain, food consumption and food efficiency and increased spleen weights in the F_0 and F_1 females.
Incidental oral short-term (1 to 30 days)	NOAEL= 2.0 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100.	Weight of evidence approach was used from four studies: (1) Subchronic toxicity study—rat (MP062). MRID 44477129. LOAEL = 6.0 (M), 3.8 (F) mg/kg/day based on decreased body weight, body-weight gain, food consumption and food efficiency.
			(2) Subchronic neurotoxicity study—rat (MP062). MRID 44477135. LOAEL = 5.6 (M), 3.3 (F) mg/kg/day based on decreased body weight and alopecia. (3) Chronic/carcinogenicity study—rat (JW062). MRID 44477145. LOAEL = 10 (M), 3.6 (F) mg/kg/day based on decreased body weight, body-weight gain, and food consumption and food efficiency; decreased HCT, HGB and RBC at 6 months in F only. (4) Two-generation rat reproduction study (JW062). MRID 44477144. LOAEL = 4.4 mg/kg/day based on decreased body weights, body-weight gain, food consumption and food efficiency and increased spleen weights in the F_0 and F_1 females.
Short-Term Dermal (1 to 30 days) Intermediate-Term Dermal (1–6 months)	A quantitative dermal assessment is not required for indoxacarb, since the calculated human dermal LOAEL exceeds the limit dose of 1,000 mg/kg/day.		
Inhalation short-term (1 to 30 days)	Inhalation NOAEL= 23 µg/L/day. UF_A = 3x UF_H = 10x FQPA SF = 1x	LOC for MOE = 30	28-day rat inhalation toxicity study (MP062). MRID 45870001.
Inhalation (1–6 months)			The LOAEL of 290 µg/L/day is based on increased spleen weights, pigmentation and hematopoiesis in the spleen, hematological changes, mortality (females), and nasal ulceration and inflammation.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR INDOXACARB FOR USE IN—Continued HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/ safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Cancer (Oral, dermal, inhalation)	"Not likely" to be carcinogenic to humans since no evidence of carcinogenicity in either the rat or mouse studies, and no evidence of mutagenicity.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. µg/L/day = microgram/liter/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to indoxacarb, EPA considered exposure under the petitioned-for tolerances as well as all existing indoxacarb tolerances in 40 CFR 180.564. EPA assessed dietary exposures from indoxacarb in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for indoxacarb. In conducting the acute dietary exposure assessment EPA used food consumption information from the 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). In estimating acute dietary exposure, EPA used maximum residue levels based on the results of field trials reflecting maximum use patterns in all commodities and used maximum Percent Crop Treated (PCT) estimates.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used food consumption information from the 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). In estimating chronic dietary exposure, EPA used average residue levels based on the results of field trials reflecting maximum use patterns in all commodities and used average PCT estimates.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that indoxacarb does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* Average or maximum residues and PCT values were used for food commodities.

Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- *Condition a:* The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- *Condition b:* The exposure estimate does not underestimate exposure for any significant subpopulation group.
- *Condition c:* Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency estimated maximum and average PCT values for the acute and chronic dietary assessments, as follows:

- *For acute dietary assessment:* Apples: 10%; apricots: 15%; blueberries: 5%; broccoli: 70%, cabbage: 35%; cantaloupe: 10%; cauliflower: 60%; celery: 5%; cherries: 2.5%; cotton: 2.5%; cucumbers: 10%; grapes: 5%; lettuce: 15%; nectarines: 15%; peaches: 10%; peanuts: 10%; pears: 2.5%; peppers: 30%; plums/prunes: 5%; potatoes: 2.5%; soybeans: 2.5%; spinach: 5%; squash: 5%; sweet corn: 10%; and tomatoes: 40%.
- *For chronic dietary assessment:* Apples: 5%; apricots: 5%; blueberries: 5% broccoli: 45%, cabbage: 20%; cantaloupe: 5%; cauliflower: 35%; celery: 5%; cherries: 2.5%; cotton: 2.5%; cucumbers: 2.5%; grapes: 2.5%; lettuce: 5%; nectarines: 15%; peaches: 2.5%; peanuts: 5%; pears: 1%; peppers: 15%; plums/prunes: 5%; potatoes: 2.5%; soybeans: 1%; spinach: 2.5%; squash: 2.5%; sweet corn: 2.5%; and tomatoes: 20%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6 to 7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than 2.5%. In those cases, estimates of average PCT between 1% and 2.5% are rounded to 2.5% and estimates of average PCT less than 1% are rounded to 1%. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%, except for those situations in which the maximum PCT is less than 2.5%. In those cases, EPA uses a maximum PCT value of 2.5%.

The Agency believes the three conditions discussed in Unit III.C.1.iv.

have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which indoxacarb may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for indoxacarb in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of indoxacarb. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Surface Water Concentration Calculator (SWCC) model and the Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of indoxacarb for acute exposures are 39 parts per billion (ppb) for surface water and 131 ppb for ground water; for chronic exposures the EDWCs are 11 ppb for surface water and 123 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the acute dietary risk assessment, a time series distribution of ground water modeled residues was used to assess the contribution to drinking water. For the chronic dietary risk assessment, a single point water concentration value of 123 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Indoxacarb is currently registered for the following uses that could result in residential exposures: Pet spot-on uses, spot, crack and crevice applications indoors, outdoor broadcast (*i.e.,* turf), perimeter and foundations, spot (*i.e.,* direct mount applications for fire ants), and crack and crevice.

Based on these use scenarios, EPA assessed residential exposure using the following assumptions:

- Spot and crack and crevice exposures were not assessed due to formulation types that minimize the potential for handler and post-application exposures (*i.e.,* gels or bait stations). Risks from spot and crack and crevice were not assessed because exposures from these formulation types are expected to be negligible.
- *Residential handler exposure:* There is a potential for dermal and inhalation exposure. Residential handler inhalation exposure is considered negligible for applying ready-to-use pet spot-ons. Residential handler dermal exposures are expected for ready-to-use pet spot-ons, however dermal exposures were not assessed due to the lack of a dermal endpoint. Residential handler inhalation and dermal exposures are considered negligible for applying ready-to-use arenas (*i.e.,* baits or stations).
- *Residential post-application dermal and incidental oral exposure:* Post-application assessments were not conducted for ant mound uses, because these are considered perimeter/spot uses; residential exposure is expected to be negligible. Spot and crack and crevice exposures were not assessed for gels or bait stations; exposure is considered negligible. A golfer assessment was not conducted, due to the lack of a dermal endpoint. Post-application inhalation exposure is generally not assessed following application to pets and turf. The combination of low vapor pressure (1.9x10–10 mm Hg at 25 °C for indoxacarb) of active ingredients typically used in pet and turf pesticide products, and the small amounts of pesticide applied to pets is expected to result in only negligible inhalation exposure. Ingestion of granules is considered an episodic event and not a routine behavior. Because the Agency does not expect this to occur on a regular basis, concern for human health is related to acute poisoning rather than short-term residue exposure. For these reasons, the episodic ingestion scenario is not included in the aggregate assessment. The only route of residential exposure for inclusion in the adult aggregate assessment is inhalation. However, inhalation exposures cannot be aggregated with background dietary exposures because the toxicity endpoints for the inhalation and short-term oral routes are different. Therefore, the only residential exposures that were combined are for children 1 to <2 years old in the short-term aggregate assessment that reflects hand-to-mouth exposures from post-application exposure to spot treatment on carpets, and children 1 to <2 years old in the intermediate- and long-term aggregate assessment that reflects exposures from treated pets.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found indoxacarb to share a common mechanism of toxicity with any other substances, and indoxacarb does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA assumed that indoxacarb does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10 times;, or uses a different additional safety factor when

reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no evidence of reproductive effects in rats. There was no evidence of increased susceptibility in developing fetuses or in the offspring following prenatal and/or postnatal exposure to indoxacarb in rats or rabbits. There was no evidence of increased susceptibility in the young in the developmental neurotoxicity study in rats.

3. *Conclusion.* EPA determined reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for indoxacarb is complete.

ii. The acute neurotoxicity, subchronic toxicity, and developmental neurotoxicity studies for indoxacarb are available and all endpoints used in the risk assessment are protective of neurotoxic effects.

iii. There is no evidence that indoxacarb results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The Agency estimated maximum and average PCT values for the acute and chronic dietary assessments, respectively, as shown in unit III.C.i., and unit III.C.ii.

Food residues were taken from the results of supervised field trial studies reflecting maximum use patterns. Drinking water residues were included in the dietary assessments as follows: A point estimate of 123 ppb was used for the chronic assessment and the time series distribution of ground water modeled residues was used in the acute assessment as a residue distribution file (RDF) in the Monte Carlo analysis. For food commodities, RDFs were constructed for the probabilistic acute dietary assessment as appropriate, and average residues were computed for blended commodities and for the chronic dietary assessment.

EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by indoxacarb.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PoDs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to indoxacarb will occupy 56% of the aPAD for children ages 1–2, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to indoxacarb from food and water will utilize 35% of the cPAD for all infants less than 1-year old, the population group receiving the greatest exposure. EPA has concluded the combined long-term food, water, and residential exposures result in aggregate MOEs of 260 (food, water, and residential) for children aged 1–2. Because EPA's level of concern for indoxacarb is a MOE of 100 or below, this MOEs is not of concern. For adults, residential inhalation exposures cannot be aggregated because they are based on different effects than for oral exposures. Therefore, long-term aggregate risk for adults is equivalent to the chronic dietary risk noted in this unit.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Indoxacarb is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure to children aged 1–2 years through food and water with short-term residential exposures to indoxacarb. For adults, residential inhalation exposures cannot be aggregated because they are based on different effects than for oral exposures. Therefore, short-term aggregate risk for adults is equivalent to the chronic risk noted in unit III.E.2.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 120 (food, water, and residential) for children aged 1–2. Because EPA's level of concern for indoxacarb is a MOE of 100 or below, this MOEs is not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Indoxacarb is currently registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure to children aged 1–2 years through food and water with intermediate-term residential exposures to indoxacarb. For adults, residential inhalation exposures cannot be aggregated because they are based on different effects than for oral exposures. Therefore, intermediate-term aggregate risk for adults is equivalent to the chronic risk noted above in unit III.E.2.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures for children aged 1–2 years result in aggregate MOEs of 260. Because EPA's level of concern for indoxacarb is a MOE of 100 or below, this MOE is not of concern.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, indoxacarb is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to indoxacarb residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

For the enforcement of tolerances established on crops, two High Performance Liquid Chromatograph/Ultraviolet Detection (HPLC/UV) methods, DuPont protocols AMR 2712–93 and DuPont–11978, are available for use. The limits of quantitation (LOQs) for these methods range from 0.01 to 0.05 ppm for a variety of plant commodities. A third procedure, Gas Chromatograph/Mass-Selective Detection (GC/MSD), DuPont method AMR 3493–95 Supplement No. 4, is also available for the confirmation of residues in plants.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food

safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established MRLs in field corn for indoxacarb.

C. Revisions to Petitioned-For Tolerances

Based on available data and using the Organisation for Economic Co-operation and Development (OECD) maximum residue limit (MRL) calculation procedures, EPA determined that the appropriate tolerance level for corn, field, forage is 6.0 ppm. Based on the corn processing studies, the Agency determined that there is a low level of residue concentration from processing; therefore, separate tolerances are not needed for the processed corn commodities of flour, meal, or oil because these commodities are covered by the tolerance for corn, field, grain. The ''grain, aspirated fractions'' tolerance does not need to be modified for field corn because 40 CFR 180.564(a) currently lists a tolerance level of 45 ppm for ''grain, aspirated fractions,'' and this tolerance covers potential indoxacarb residues in aspirated grain fractions derived from corn.

V. Conclusion

Therefore, tolerances are established for residues of indoxacarb, [(S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)-phenyl] amino]carbonyl] indeno[1,2e][1,3,4]oxadiazine-4a(3H)-carboxylate], and [(R)-methyl 7 chloro-2,5-dihydro-2[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl] indeno [1,2-e][1,3,4] oxadiazine-4a(3H)-carboxylate], in or on corn, field, forage at 6.0 ppm; corn, field, stover at 15 ppm; and corn, field, grain at 0.02 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 22, 2017.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.564, add alphabetically the entries for ''Corn, field, forage'', ''Corn, field, grain'', and ''Corn, field, stover'' to the table in paragraph (a)(1) to read as follows:

§ 180.564 Indoxacarb; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Corn, field, forage	6.0
Corn, field, grain	0.02
Corn, field, stover	15
* * * * *	

* * * * *

[FR Doc. 2017–26517 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0537; FRL–9970–04]

Sedaxane; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of sedaxane in or on grain, cereal, forage, fodder and straw, group 16; grain, cereal, group 15; peanut; and peanut, hay. Syngenta Crop Protection, LLC requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective December 8, 2017. Objections and requests for hearings must be received on or before February 6, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0537, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0537 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 6, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0537, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of November 30, 2016 (81 FR 86312) (FRL–9954–06), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6F8458) by Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR 180.665 be amended by establishing tolerances for residues of the fungicide sedaxane, in or on grain, cereal, forage, fodder and straw, group 16 at 0.06 parts per million (ppm); grain, cereal, group 15 at 0.01 ppm; peanut at 0.01 ppm; and peanut, hay at 0.08 ppm. The petition also requested that tolerances for residues of sedaxane on the following commodities be removed upon the establishment of the petitioned-for tolerances: barley, grain at 0.01 ppm; barley, hay at 0.04 ppm; barley, straw at 0.01 ppm; corn, field, forage at 0.01 ppm; corn, field, grain at 0.01 ppm; corn, field, stover at 0.01 ppm; corn, pop, grain at 0.01 ppm; corn, pop, stover at 0.01 ppm; corn, sweet, forage at 0.01 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; corn, sweet, stover at 0.01 ppm; oat, forage at 0.015 ppm; oat, grain at 0.01 ppm; oat, hay at 0.06 ppm; oat, straw at 0.01 ppm; rye, forage at 0.015 ppm; rye, grain at 0.01 ppm; rye, straw at 0.01 ppm; sorghum, grain, forage at 0.01 ppm; sorghum, grain, grain at 0.01 ppm; sorghum, grain, stover at 0.01 ppm; wheat, forage at 0.015 ppm; wheat, grain at 0.01 ppm; wheat, hay at 0.06 ppm; and wheat, straw at 0.01 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, LLC, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA is establishing tolerances and removing tolerances as requested in the petition, with one exception. The tolerance for crop group 16 is being established at 0.10 ppm to harmonize with Codex Alimentarius Commission maximum residue level (MRL).

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for sedaxane including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with sedaxane follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The main target tissue for sedaxane was found to be the liver. Sedaxane also caused thyroid hypertrophy/hyperplasia in male rats. In the acute neurotoxicity (ACN) and sub-chronic neurotoxicity (SCN) studies, sedaxane caused decreased activity, muscle tone, rearing and grip strength; however, because no specific neurotoxic effects or adverse histopathology were observed, EPA has concluded that there is low concern for neurotoxicity.

In the rat, no adverse effects in fetuses were seen in developmental toxicity studies at maternally toxic doses. In the rabbit, fetal toxicity was observed at the same doses as the dams. Offspring effects in the rat reproduction study occurred at the same doses causing parental effects.

The available data show evidence of high dose liver tumors (in male rats and mice), thyroid tumors (in male rats), and uterine tumors (in female rats) resulting from exposure to sedaxane. Based on a weight of evidence of the available data, a constitutive androstane receptor/pregnane-X receptor (CAR/PXR)-mediated mitogenic mode-of action (MOA) was established for liver tumors in male mice and rats and a liver-mediated altered thyroid hormone homeostasis MOA was established for thyroid tumors in male rats. At this time, a MOA for the uterine tumors has not been identified.

To assess the carcinogenic potential for sedaxane, EPA has concluded that a non-linear approach (*i.e.,* RfD) is appropriate for the following reasons: (1) There is a clear understanding of the threshold (non-linear) doses associated with the key events in the established MOAs leading to liver and thyroid tumors in rodents (the key events occur only at doses that well exceed the chronic reference dose (0.11 mg/kg/day)); (2) sedaxane is not mutagenic or genotoxic; (3) the dose at which uterine tumors was observed is at 261 mg/kg/day, which greatly exceeds the chronic reference dose (0.11 mg/kg/day) being used to assess chronic exposure to sedaxane. Sedaxane has been reclassified as ''Suggestive Evidence of Carcinogenic Potential''.

Sedaxane has low acute toxicity by the oral, dermal, and inhalation routes. It is not a dermal sensitizer, causes no skin irritation, and only slight eye irritation.

Specific information on the studies received and the nature of the adverse effects caused by sedaxane as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document titled ''Sedaxane Human Health Risk Assessment to Support New Seed Treatment Uses on Cereal Grains Crop Group 15; Forage, Fodder and Straw of Cereal Grains Crop Group 16; Peanut; and Cancer Reclassification'', pages 11–19 in docket ID number EPA–HQ–OPP–2016–0537.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for sedaxane used for human risk assessment is shown in the Table of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR SEDAXANE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/ safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children and Females 13–49 years of age).	NOAEL = 30 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 0.30 mg/kg/day. aPAD = 0.30 mg/kg/day.	Rat ACN Study NOAEL = 30 mg/kg LOAEL = 250 mg/kg based on reduced activity, decreased rearing, initial inactivity, piloerection, ruffled fur and recumbency, decreased body weight (BW), decreased body weight gain (BWG) and food consumption (males). In females, weakened condition, swaying gait, decreased activity, reduced muscle tone, and decreased locomotor activity and rearing. The weakened condition, swaying gait and decreased activity were observed on days 2–7, while the other effects were on day 1.
Chronic dietary (All populations)	NOAEL= 11 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.11 mg/kg/day. cPAD = 0.11 mg/kg/day.	Chronic Rat Study NOAEL = 11/14 mg/kg bw/day ♂/♀ LOAEL = 67/86 mg/kg bw/day ♂/♀ in males based on decreased hind limb grip strength, increased liver weight, increased incidences of hepatocyte hypertrophy and eosinophilic foci, and thyroid follicular cell hypertrophy, basophilic colloid, epithelial desquamation and increased phosphate levels (♂). In females, it was based on decreased BW and BWG, increased liver weight and the same thyroid histopathology noted above for males.
Cancer (Oral, dermal, inhalation).	Classification: ''Suggestive Evidence of Carcinogenic Potential''. A non-linear approach (*i.e.,* RfD) would adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to sedaxane.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day= milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to sedaxane, EPA considered exposure under the petitioned for tolerances as well as all existing sedaxane tolerances in 40 CFR 180.665. EPA assessed dietary exposures from sedaxane in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for sedaxane. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) under the Continuing Surveys of Food Intake by Individuals (CSFII) and the CDC under the National Health and Nutrition Examination Survey What We Eat in America (NHANES/WEIA) 2003–2008. EPA assumed tolerance-level residues for all commodities and 100% crop treated. Default processing factors were used with the exception of peanut butter.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA NHANES/WEIA 2003–2008. EPA assumed tolerance-level residues for all commodities and 100% crop treated (CT). Default processing factors were used with the exception of peanut butter.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk to sedaxane. Cancer risk was assessed using the same exposure estimates as discussed in Unit III.C.1.ii.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for sedaxane. Tolerance-level residues and/or 100% CT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for sedaxane in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of sedaxane. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the FQPA Index Reservoir Screening Tool (FIRST) and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of sedaxane for acute exposures are estimated to be 4.1 parts per billion (ppb) for surface water and 15.1 ppb for ground water and for chronic exposures for non-cancer assessments are estimated to be 1.2 ppb for surface water and 13.0 ppb for ground water. The surface water estimates include contributions from all drinking water residues of concern identified for risk assessment purposes; nevertheless, the ground water EDWCs were higher than the surface water EDWCs and were selected for use in the dietary exposure assessments.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 15.1 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 13.0 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-

occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Sedaxane is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to sedaxane and any other substances, and sedaxane does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that sedaxane does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence for increased susceptibility following prenatal or post-natal exposures to sedaxane based on effects seen in developmental toxicity studies in rabbits or rats. In range-finding and definitive developmental toxicity studies in rats, neither quantitative nor qualitative evidence of increased susceptibility of fetuses to *in utero* exposure to sedaxane was observed. In these studies, there were no single-dose effects. There was no evidence of increased susceptibility in a two-generation reproduction study in rats following prenatal or post-natal exposure to sedaxane. There was no evidence of neuropathology or abnormalities in the development of the fetal nervous system from the available toxicity studies conducted with sedaxane. Clear NOAELs/LOAELs were established for the developmental effects seen in rats and rabbits as well as for the offspring effects seen in the two-generation reproduction study. The dose-response relationship for the effects of concern is well characterized.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for sedaxane is complete.

ii. Given the available information, there is low concern that sedaxane is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. In the rat, no adverse effects in fetuses were seen in developmental toxicity at maternally toxic doses. In the rabbit, fetal toxicity was observed at the same doses as the dam (increased unossified sternebrae and 13th rudimentary ribs and a decrease in fetal weights of −9% and increased abortions). In the dam, at the same doses, the effects were decreased body weight, reduced food consumption, and decreased defecation. In reproduction studies, offspring effects occurred at the same doses causing parental effects; thus, there was no quantitative increase in sensitivity in rat pups. The LOAELs and NOAELs for the developmental and reproduction studies were clearly defined. The NOAEL used for the acute dietary risk assessment (30 mg/kg/day), based on effects observed in the ACN study, is protective of the developmental and offspring effects seen in rabbits and rats with the NOAELs of 100–200 mg/kg/day. Based on these considerations, there are no residual uncertainties for pre-and/or post-natal susceptibility.

iv. There were no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to sedaxane in drinking water. These assessments will not underestimate the exposure and risks posed by sedaxane.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to sedaxane will occupy <1% of the aPAD for all infants (<1-year-old), the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to sedaxane from food and water will utilize <1% of the cPAD for all population subgroups. There are no residential uses for sedaxane.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because there are no proposed or registered residential uses of sedaxane, a short-term risk assessment was not performed. The chronic risk assessment is protective for any short-term exposures from food and drinking water.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because there are no proposed or registered residential uses of sedaxane, an intermediate-term risk assessment was not performed. The chronic risk assessment is protective for any intermediate-term exposures from food and drinking water.

5. *Aggregate cancer risk for U.S. population.* As discussed in Unit III.A., EPA has concluded that using the nonlinear approach based on the chronic RfD will be protective of potential carcinogenicity.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to sedaxane residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate analytical method is available to enforce the proposed tolerances for sedaxane in plant commodities. A modification of the Quick, Easy, Cheap, Effective, Rugged, and Safe (QuEChERS) method was developed for the determination of residues of sedaxane (as its isomers SYN508210 and SYN508211) in/on various crops. The sedaxane isomers (SYN508210 and SYN508211) are quantitatively determined by LC/MS/MS. The validated limit of quantitation (LOQ) reported in the method is 0.005 ppm for both sedaxane isomers.

The analytical standard for sedaxane, with an expiration date of February 28, 2018, is currently available in the EPA National Pesticide Standards Repository.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international MRL established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

Codex has established MRLs for sedaxane in or on grain, cereal, forage, fodder and straw, group 16 at 0.10 ppm and grain, cereal, group 15 at 0.01 ppm. Codex has not established a MRL for sedaxane in or on peanut. Tolerances are harmonized with the Codex MRLs for groups 16 and 15.

V. Conclusion

Therefore, tolerances are established for residues of sedaxane in or on grain, cereal, forage, fodder and straw, group 16 at 0.10 ppm; grain, cereal, group 15 at 0.01 ppm; peanut at 0.01 ppm; and peanut, hay at 0.08 ppm. In addition, EPA is removing the following existing tolerances for residues of sedaxane as they are superseded by the tolerances established in this rulemaking: Barley, grain at 0.01 ppm; barley, hay at 0.04 ppm; barley, straw at 0.01 ppm; corn, field, forage at 0.01 ppm; corn, field, grain at 0.01 ppm; corn, field, stover at 0.01 ppm; corn, pop, grain at 0.01 ppm; corn, pop, stover at 0.01 ppm; corn, sweet, forage at 0.01 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; corn, sweet, stover at 0.01 ppm; oat, forage at 0.015 ppm; oat, grain at 0.01 ppm; oat, hay at 0.06 ppm; oat, straw at 0.01 ppm; rye, forage at 0.015 ppm; rye, grain at 0.01 ppm; rye, straw at 0.01 ppm; sorghum, grain, forage at 0.01 ppm; sorghum, grain, grain at 0.01 ppm; sorghum, grain, stover at 0.01 ppm; wheat, forage at 0.015 ppm; wheat, grain at 0.01 ppm; wheat, hay at 0.06 ppm; and wheat, straw at 0.01 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 22, 2017.

Michael L. Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.665, revise the table in paragraph (a) to read as follows:

§ 180.665 Sedaxane; tolerances for residues.

(a) * * *

Commodity	Parts per million
Beet, sugar, roots	0.01
Canola, seed	0.01
Cotton, gin byproducts	0.01
Cotton, undelinted seed	0.01
Grain, cereal, forage, fodder and straw, group 16	0.10
Grain, cereal, group 15	0.01
Pea and bean, dried shelled, except soybean, subgroup 6C	0.01
Peanut	0.01
Peanut, hay	0.08
Potato	0.02
Potato, wet peel	0.075
Rapeseed, subgroup 20A	0.01
Soybean, forage	0.05
Soybean, hay	0.04
Soybean, seed	0.01
Vegetable, foliage of legume, except soybean, subgroup 7A	0.01

* * * * *

[FR Doc. 2017–26519 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0687; FRL–9969–96]

Bacillus subtilis Strain BU1814; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Bacillus subtilis* strain BU1814 in or on all food commodities when used in accordance with label directions and good agricultural practices. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus subtilis* strain BU1814 under FFDCA.

DATES: This regulation is effective December 8, 2017. Objections and requests for hearings must be received on or before February 6, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0687, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0687 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 6, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0687, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background

In the **Federal Register** of February 7, 2017 (82 FR 9555) (FRL–9956–86), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 6F8490) by BASF Corporation, 26 Davis Dr., P.O. Box 13528, Research Triangle Park, NC 27709. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the fungicide *Bacillus subtilis* strain BU1814 in or on all food commodities. That document referenced a summary of the petition prepared by the petitioner BASF Corporation, which is available in the docket via *http://www.regulations.gov.* There were no

comments received in response to the notice of filing.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicity and exposure data on *Bacillus subtilis* strain BU1814 and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for *Bacillus subtilis* strain BU1814.'' This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**. The available data indicate that *Bacillus subtilis* strain BU1814 showed no toxicity, no pathogenicity, and no infectivity via the acute oral, pulmonary, and intravenous routes of exposure. Based upon its evaluation, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Bacillus subtilis* strain BU1814. Therefore, an exemption from the requirement of a tolerance is established for residues of *Bacillus subtilis* strain BU1814 in or on all food commodities when used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

An analytical method is not required because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this action, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 27, 2017.

Richard P. Keigwin, Jr.,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1348 to subpart D to read as follows:

§ 180.1348 *Bacillus subtilis* strain BU1814; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Bacillus subtilis* strain BU1814 in or on all food commodities when used in

accordance with label directions and good agricultural practices.

[FR Doc. 2017–26518 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 770

[EPA–HQ–OPPT–2017–0245; FRL–9971–38]

RIN 2070–AK36

Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; withdrawal.

SUMMARY: In the **Federal Register** of October 25, 2017, EPA published both a direct final rule and proposed rule to update the voluntary consensus standards that originally published in the Toxics Substances Control Act (TSCA) Title VI formaldehyde emission standards for composite wood products final rule on December 12, 2016. In addition, in the direct final rule and proposed rule the EPA amended the testing requirements for panel producers and third-party certifiers establishing correlation between approved quality control test methods and either the ASTM E1333–14 test chamber, or, upon showing equivalence, the ASTM D6007–14 test chamber. As noted in the direct final rule, if EPA received adverse comment on the proposed amendments, the Agency would publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the direct final action will not take effect. The Agency did receive adverse comment on the proposed rule amendments, and is therefore withdrawing the direct final rule and will instead proceed with a final rule based on the proposed rule after considering all public comments.

DATES: Effective December 8, 2017, the direct final rule published in the **Federal Register** of October 25, 2017 (82 FR 49287) (FRL–9962–84), is withdrawn.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Erik Winchester, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–6450; email address: *winchester.erik@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?

A list of potentially affected entities is provided in the **Federal Register** of October 25, 2017 (82 FR 49287). If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What rule is being withdrawn?

In the October 25, 2017 **Federal Register**, EPA published both a direct final rule (*see* 82 FR 49287) and proposed rule (*see* 82 FR 49302) (FRL–9962–80) pursuant to section 601 of TSCA that would have updated several of the voluntary consensus standards incorporated by reference at § 770.99 as published on December 12, 2016 (*see* 81 FR 89674) (FRL–9949–90). These voluntary consensus standards have been updated, withdrawn, or superseded since publication of the original final rule in 2016. Additionally, the direct final rule would have amended testing requirements for demonstration of equivalence and correlation between approved quality control test methods and either the ASTM E1333–14 test chamber, or, upon showing equivalence in accordance with § 770.20(d), the ASTM D6007–14 test chamber under § 770.20(d)(2)(i).

Since the direct final rule and proposed rule's publication, EPA has received a comment on the proposed amendments to the voluntary consensus standard updating action that the Agency considers to be adverse. As a result of receiving an adverse comment, EPA is withdrawing the direct final rule published in the **Federal Register** on October 25, 2017. All comments are available for review in the public docket. EPA will address the public comments received on this action in a subsequent final rule.

III. How do I access the docket?

To access the docket, please go to *http://www.regulations.gov* and follow the online instructions using the docket ID number EPA–HQ–OPPT–2017–0245. Additional information about the Docket Facility is also provided under **ADDRESSES** in the October 25, 2017 (82 FR 49287) **Federal Register** document. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

IV. Good Cause Finding

EPA finds that there is ''good cause'' under the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to withdraw the direct final rule discussed in this document without prior notice and comment. For this document, notice and comment is impracticable and unnecessary because EPA is under a time limit to publish this withdrawal. It was determined that this document is not subject to the 30-day delay of effective date generally required by 5 U.S.C. 553(d) as there is good cause for the withdrawal to be effective immediately. This withdrawal must become effective prior to the effective date of the direct final rule being withdrawn, as EPA explained in the direct final rule itself.

V. Statutory and Executive Order Reviews

This document withdraws regulatory requirements that have not gone into effect. As such, the Agency has determined that this withdrawal will not have any adverse impacts, economic or otherwise. The statutory and Executive Order review requirements applicable to the direct final rule being withdrawn were discussed in the October 25, 2017 (82 FR 49287) **Federal Register** document. Those review requirements do not apply to this action because it is a withdrawal and does not contain any new or amended requirements.

VI. Congressional Review Act (CRA)

Pursuant to the CRA (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). Section 808 of the CRA allows the issuing agency to make a rule effective sooner than otherwise provided by CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. As required by 5 U.S.C. 808(2), this determination is supported by a brief statement in Unit IV.

List of Subjects in 40 CFR Part 770

Environmental protection, Formaldehyde, Incorporation by reference, Reporting and recordkeeping requirements, Third-party certification, Toxic substances, Wood.

Dated: December 5, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–26655 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1601

[Agency Docket Number CSB 17–1]

Freedom of Information Act Program

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Final rule.

SUMMARY: The Chemical Safety and Hazard Investigation Board (CSB) published an interim final Freedom of Information Act (FOIA) rule in the **Federal Register** on September 29, 2017. This final rule confirms that the interim final rule is adopted as final without change.

DATES: This rule is effective December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Kara Wenzel, Acting General Counsel, 202–261–7600, or *kara.wenzel@csb.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

The CSB published an interim final FOIA rule in the **Federal Register** on September 29, 2017, 82 FR 45502. As an interim final rule, the rule became effective immediately upon publication in the **Federal Register**. Nonetheless, the CSB welcomed public comments from interested persons regarding the interim final rule. The due date for comments ended on October 30, 2017. The CSB did not receive any comments on the interim final rule. The CSB has determined that no further revisions are required to the interim final rule. Therefore, the CSB now issues this final rule to confirm that the interim final rule published previously shall be the final CSB FOIA rule. The interim final rule published September 29, 2017, 82 FR 45502, will be codified at 40 CFR part 1601 at the next regular update to the Code of Federal Regulations.

Regulatory Procedures

Administrative Procedure Act (5 U.S.C. Ch. 5)

The CSB's previous implementation of this rule as an interim final rule, with provision for post-promulgation public comment, was based on section 553(b) of the Administrative Procedure Act. 5 U.S.C. 553(b). Under section 553(b), an agency may issue a rule without notice of proposed rulemaking and the pre-promulgation opportunity for public comment, with regard to ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.'' The CSB determined that many of the revisions were to interpretive rules issued by the CSB. Moreover, the CSB determined that the remaining revisions were rules of agency procedure or practice, as they did not change the substantive standards the agency applies in implementing the FOIA. The CSB also concluded that a pre-publication public comment period was unnecessary. The revisions in 40 CFR part 1601 merely implemented statutory changes, aligned the CSB's regulations with controlling judicial decisions, and clarified agency procedures.

Unfunded Mandates Reform Act (2 U.S.C. Ch. 25)

This rule is not subject to the Unfunded Mandates Reform Act because it does not contain a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000.00 or more in any one year. Nor will it have a significant or unique effect on small governments.

Regulatory Flexibility Act (5 U.S.C. Ch. 6)

This rule is not subject to the Regulatory Flexibility Act. The CSB has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The rule implements the procedures for processing FOIA requests within the CSB. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for the requesters. Thus, fees accessed by CSB will be nominal. Further, the ''small entities'' that make FOIA requests, as compared with individual and other requesters, are relatively few in number.

Paperwork Reduction Act (44 U.S.C. Ch. 35)

This rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The Paperwork Reduction Act imposes certain requirements on Federal agencies in connection with the conducting or sponsoring of any collection of information. This rule does not contain any new collection of information requirement within the meaning of the Act.

Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. Ch. 6)

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (as amended), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000.00 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

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

This rule will not have a significant effect on the human environment. Accordingly, this rule is categorically excluded from environmental analysis under 43 CFR 46.210(i).

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

Section 206 of the E-Government Act requires agencies, to the extent practicable, to ensure that all information about that agency required to be published in the **Federal Register** is also published on a publicly accessible Web site. All information about the CSB required to be published in the **Federal Register** may be accessed at *http://www.csb.gov/.* The E-Government Act also requires, to the extent practicable, that agencies ensure that a publicly accessible Federal Government Web site contains electronic dockets for rulemakings under the Administrative Procedure Act of 1946 (5 U.S.C. 551 *et seq.*). Under this Act, an electronic docket consists of all submissions under section 553(c) of title 5, United States Code; and all other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically. The Web site *http://www.csb.gov/* will contain an electronic dockets for this rulemaking.

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

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

language of this rule on the Federal Plain Language Guidelines.

List of Subjects in 40 CFR Part 1601

Administrative practice and procedure, Archives and records, Confidential business information, Freedom of information, Privacy.

Accordingly, the interim rule amending 40 CFR part 1601, which was published at 82 FR 45502 on September 29, 2017, is adopted as final without change.

Ray Porfiri,

Deputy General Counsel, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2017–26438 Filed 12–7–17; 8:45 am]

BILLING CODE 6350–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[MB Docket No. 17–106; FCC 17–137]

Elimination of Main Studio Rule

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) eliminates the rule that requires each AM, FM, and television broadcast station to maintain a main studio located in or near its community of license. The FCC also eliminates existing requirements associated with the rule, including the requirement that the main studio have full-time management and staff present during normal business hours, and that it have program origination capability.

DATES: Effective January 8, 2018, except for §§ 73.3526(c)(1) and 73.3527(c)(1), which contain new or modified information collection requirements, and which shall become effective after the Commission publishes a document in the **Federal Register** announcing OMB approval and the relevant effective date.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Diana Sokolow, *Diana.Sokolow@fcc.gov,* of the Policy Division, Media Bureau, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O), FCC 17–137, adopted and released on October 24, 2017. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., Room CY–A257, Washington, DC 20554. This document will also be available via ECFS at *http://fjallfoss.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Copies of the materials can be obtained from the FCC's Reference Information Center at (202) 418–0270. 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

1. The Commission in this R&O adopts the proposal in the Notice of Proposed Rulemaking (NPRM), 82 FR 25590 (June 2, 2017), to eliminate the Commission rule requiring AM, FM, and television broadcast stations to maintain a local main studio.[1] We also adopt the proposal to eliminate the associated staffing and program origination capability requirements that apply to main studios. To ensure that community members retain the ability to communicate with and obtain information regarding their local stations, we retain the existing requirement that broadcasters maintain a local or toll-free telephone number. We also require stations to maintain any portion of their public file that is not part of the online public file at a publicly accessible location within the station's community of license. Finally, we make conforming edits to other Commission rules that are necessitated by the elimination of the main studio rule.

2. We agree with the vast majority of commenters[2] in this proceeding that the main studio rule should be eliminated. We are persuaded that eliminating the rule will result in significant cost savings for broadcasters and other public interest benefits. For example, the record shows that in some small towns and rural areas the cost of complying with the current main studio rule dissuades broadcasters from launching a station, even if the broadcaster has already obtained a construction permit for the station. Eliminating the rule thus may lead to increased broadcast service in those areas. In addition, as commenters suggest, eliminating the main studio rule will provide broadcasters with the same flexibility as Internet radio stations and cable and satellite providers, none of which are subject to a main studio requirement. While we recognize the importance of local broadcast television and radio stations as a source of news and information, we agree with NAB that the record does not provide any ''evidence that the physical location of a station's main studio is the reason local broadcasters are able to deliver content that meets the needs and interest[s] of their communities, or that the location and staffing of the studio has any relationship to the ability of a station to serve its local audience.''

3. We affirm the tentative conclusion in the NPRM that technological innovations have rendered local studios unnecessary as a means for viewers and listeners to communicate with or access their local stations and to carry out the other traditional functions that they have served. The record shows that it is exceedingly rare for a member of the public to visit a station's main studio, with community members overwhelmingly choosing instead to communicate with stations through more efficient means such as email, station Web sites, social media, mail, or telephone.[3] This has been the case even more so since the Commission created the online public inspection file. Once broadcasters fully transition to the online public file in early 2018, requiring stations to maintain a fully staffed main studio for purposes of providing access to the file will no longer be practical or justifiable. It is also relevant that community members already participate in station shows from outside the main studio, for example by appearing via telephone or Skype. As some commenters state, in-person visits from community members are now ''unnecessary, if not obsolete,'' as a result of the ''near ubiquity of remote communication.''[4]

[1] Because we are eliminating the main studio rule, we need not address one commenter's argument that the current main studio rule is unenforceable under the Administrative Procedure Act. We also decline to address herein arguments that are outside the scope of this proceeding, which is limited to elimination of the main studio rule and the associated staffing and program origination capability requirements.

[2] Contrary to the suggestion of Common Frequency, the ample record in this proceeding provides the Commission with sufficient information to proceed to this R&O.

[3] Although broadcast licensees are obligated to serve ''the public interest, convenience, and necessity,'' we find that ''convenience'' need not include reasonable physical access to the station's facilities in the community of license, contrary to the suggestion of one commenter, given how rarely community members today opt to access such facilities.

[4] In addition, some commenters point to the legitimate public safety concerns that are associated with allowing uninvited members of the public to visit a station's main studio.

4. We disagree with arguments that in the absence of a local main studio, the Commission will be unable to ensure that a station serves its local community. Broadcast licensees still will be required to include in their public inspection files, on a quarterly basis, a list of those ''programs that have provided the station's most significant treatment of community issues during the preceding three month period,'' including a brief description of each relevant program. Further, as part of the broadcast station license renewal process, the Commission is required to find that ''the station has served the public interest, convenience, and necessity'' during its preceding license term. In particular, ''[o]ne of a television broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license.''

5. We also are not persuaded by contentions that broadcasters' local community involvement or the provision of local news will significantly decline if we eliminate the main studio rule. Broadcast commenters explain that they keep apprised of local needs and issues to distinguish themselves from their competitors, to gain popularity and thus advertising dollars or, in the case of noncommercial educational (NCE) stations, contributions, and to fulfill their public interest obligations.[5] Broadcasters will retain these incentives even in the absence of the main studio rule.[6] In addition, we agree with Univision that today, ''providing service to, interacting with, and maintaining awareness of a community is not dependent upon locating a station's offices within certain arbitrary geographic boundaries imposed by the'' main studio rule. To the contrary, broadcasters can interact with local community members by using technology such as social media, and even without a local main studio, broadcasters can use modern technology to broadcast information about local events. The main studio rule does not require broadcasters to provide any particular level of local coverage or involvement in the local community, and there is no evidence in the record that elimination of this rule will cause a decrease in such involvement or coverage.

6. We reject claims that the elimination of the main studio rule will have a negative impact on broadcasters' ability to broadcast emergency and time-sensitive information. One commenter explains that in terms of ''a station's ability to communicate time-sensitive or emergency information to the public,'' today telephone and Internet communications are more efficient than an in-person interaction at a local studio. In furtherance of their obligation to serve their communities of license, commenters state that broadcasters will continue providing timely emergency information to their viewers and listeners. Additionally, we note that the elimination of the main studio rule will not in any way alter a station's obligations to transmit emergency alerts received via the emergency alert system (EAS).[7]

7. Because we find that technological innovations have eliminated the need for a local main studio, the costs of complying with the main studio rule substantially outweigh any benefits.[8] Broadcasters detail the significant costs that they face under the main studio rule, including such expenses as: (a) Rent, utilities, insurance, and maintenance costs for the studio itself; (b) equipment and transmission facilities; and (c) salaries, taxes, insurance, and benefits for the main studio's two full-time employees. Broadcasters claim that main studio-related costs range from $20,000 per year to several hundred thousand dollars per year.[9] One broadcaster states that it could consolidate main studios and save more than $10 million annually. The main studio rule imposes significant and burdensome costs on broadcasters, particularly smaller broadcasters and NCE stations.[10]

8. The cost savings broadcasters may achieve following elimination of the main studio rule will enable them to allocate greater resources to local programming and other matters such as community outreach, newsgathering, equipment upgrades, and attracting new talent and personnel. According to some commenters, such savings could even prevent some stations from going dark. Stations will have the flexibility to operate studios in the most efficient manner, and some stations that are co-owned or jointly operated may find it to be more efficient for them to co-locate their studios.[11] We conclude that providing stations with the maximum flexibility by eliminating the main studio rule in its entirety is preferable to the more limited approaches proposed by some commenters, which could still impose significant cost burdens on some stations and would not entirely address concerns that the costs of complying with the main studio rule are no longer justified today.

9. Eliminating the main studio rule and associated requirements is not inconsistent with section 307(b) of the Communications Act of 1934, as amended (the Act), which requires the Commission to ''make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide for a fair, efficient, and equitable distribution of radio service to each of the same.'' In the absence of the main studio rule, broadcast stations still will be licensed to a specific community of license, and they will be obligated to place a certain signal contour over that community. As noted above, broadcasters also will remain subject to license renewal and quarterly issues/programs list requirements. Moreover, programming designed to meet a community's needs and interests can be produced anywhere today. For the reasons discussed herein, the record supports our finding that a local main studio is no longer necessary to ensure that broadcast stations serve their local communities,[12] and thus eliminating

[5] We note that the main studio rule does not require broadcasters to provide coverage of their local communities; rather, the rule simply governs the permissible location of a station's main studio.

[6] The record suggests that not all stations will choose to eliminate their current main studios after the main studio rule is repealed. Those stations that do choose to eliminate their current main studios likely will often maintain an office or studio that is convenient to their viewers or listeners, so that, among other things, community members can appear in person to serve as on-air guests or attend in-studio events, and so that contest prize winners can visit the station to retrieve their prizes.

[7] As explained below, broadcasters already have processes in place to ensure that they are responsive to emergency situations.

[8] This rationale for eliminating the main studio rule applies to all broadcast stations, and we thus will eliminate the rule in its entirety rather than eliminating it only for a certain subset of stations.

[9] Due to the specific information broadcasters have provided regarding costs of compliance with the current main studio rule and associated requirements, we are not persuaded by commenters' unsupported arguments that maintaining a local main studio ''has never been *more* affordable'' and that broadcasters do not need relief from the Commission in this regard.

[10] Some commenters claim, without evidence, that small and independent broadcasters will not benefit from the elimination of the main studio rule because they likely will not relocate their existing studios and will become unable to compete against consolidated multi-station broadcasters. The fact-based statements of small broadcasters in this proceeding, detailing the costs of compliance with the main studio rule and the potential benefits to them of the elimination of the rule, belie these claims.

[11] Contrary to the suggestion of one commenter, we see no evidence in the record that any broadcast station would attempt to move its studio outside of this country, and we question whether doing so would be feasible or economical.

[12] We thus reject claims that the main studio rule is still needed to meet the obligations in section 307(b) of the Act. In addition, we agree with NAB that any assertion that the main studio rule is needed to enforce the ''transmission service''

Continued

the main studio requirement will not prevent compliance with the distribution directive in section 307(b) of the Act.

10. We note that the Commission or Media Bureau has previously granted waivers of the main studio rule. Our decision to eliminate the main studio requirement supersedes these waiver grants, including pledges that the licensees made in connection with those waivers, with one exception discussed below.[13] Accordingly, as of the effective date of the rules adopted in this R&O, stations that have previously received a waiver of the main studio rule must comply with the Commission's rules, including the requirement to maintain a local or toll-free number, rather than the licensee pledges, if any, associated with their superseded waiver grants. Upon the elimination of the main studio rule, it would not make sense to continue subjecting stations to the commitments they made in obtaining a waiver of the main studio rule, including any related recordkeeping requirements.

11. In addition to eliminating the main studio rule itself, we adopt our NPRM proposal to eliminate the staffing requirements currently associated with the rule. This will provide broadcasters with more flexibility to staff their operations as they see fit. Pursuant to Commission precedent, there currently must be two employees (one management and one staff) present on a full-time basis at a main studio during normal business hours. Given the technological advances that enable remote monitoring and control of broadcast stations, commenters attest that some main studio employees have nothing to do but sit at the main studio in fulfillment of this requirement. Commenters persuasively state that it can be difficult for small or rural stations and for financially-challenged AM stations to support two full-time employees. For example, station KIHT(FM) is licensed to Amboy, California (population: four) and serves motorists traveling through the Mojave Desert. One employee travels over an hour each way each day to staff the main studio.

12. We find that decisions regarding location and number of staff members should be left to broadcast licensees.[14] Although we acknowledge that elimination of the main studio staffing requirement possibly could lead to fewer employees available to interact person to person at the physical station office, we have explained above that technology enables broadcasters to interact with the local community and to broadcast information about local events even without a local main studio. Eliminating the main studio requirement and associated staffing requirement promotes our statutory goals by allowing broadcasters to allocate greater resources to programming and other matters, promoting increased broadcast service in small towns and rural areas, and preventing stations from going dark. To the extent commenters express concerns about potential job loss following the elimination of the main studio rule and the associated staffing requirement, we do not believe we are required to disregard our statutory goals to prevent such loss. Further, preventing stations from going dark and enabling broadcasters to launch stations that they otherwise may not launch may promote employment.

13. In addition to the foregoing, we also adopt our NPRM proposal to eliminate the program origination capability requirement currently associated with the main studio rule. This will provide broadcasters greater flexibility with respect to their programming operations. Pursuant to Commission precedent, the main studio currently must be capable of transmitting programming and must be equipped with production and transmission facilities. When the Commission decided thirty years ago to eliminate its rule requiring stations to actually originate programming at their main studios, it concluded that ''the main studio no longer plays the central role in the production of a station's programming and programming originated from within the political boundaries of the community is not necessarily responsive to the needs and interests of the community.'' [15] Conversely, the Commission has recognized for decades that non-locally produced programming can serve the needs of a community. Those statements are only more true today. Technology makes it easier than ever before to originate locally relevant programming from locations outside of the station's community of license, and the existence of technology that enables stations to provide local broadcast coverage without a local main studio also moots concerns that licensees need a local main studio to broadcast emergency information.

14. There is no evidence in the record that the current program origination capability requirement has enhanced local programming or otherwise served the public interest. Commenters state that many broadcasters that currently originate programming locally will continue to do so in the absence of the current program origination capability requirement. In any case, it appears that the location from which programming is originated is irrelevant to whether the programing serves a community's needs and interests. We agree with broadcast commenters ''that a licensee's understanding of the needs and concerns of its station's audience,'' not the physical location of its studio or program production equipment, ''promotes the broadcast of issue-responsive programming.'' [16]

15. As proposed in the NPRM, we retain § 73.1125(e) of our rules, which requires ''[e]ach AM, FM, TV and Class A TV broadcast station [to] maintain a local telephone number in its community of license or a toll-free number.'' NAB supports this requirement, which it says ''keep[s] the community well-informed and [is] not unduly burdensome.'' The telephone number rule permits station owners to provide one telephone number for multiple stations, provided that the number is toll-free or local to each station's community of license.[17] Some consumers are subject to an additional fee for non-local calls, and we thus retain the requirement for a local or toll-free number. Retaining the telephone number rule will help promote continued access to local broadcast

requirement is misplaced because ''[t]he Commission effectively abandoned this definition of transmission service when it eliminated the program origination requirement.''

[13] The main studio waiver grants are superseded by this R&O because there will no longer be a main studio rule to be waived. Given that waivers of the main studio rule will no longer be necessary, we need not address one commenter's claim that the current waiver process leads to an unfair and inefficient distribution of radio services. Below we explain one type of main studio waiver for which we will grandfather the station's current main studio as a permissible location for its local public file.

[14] We caution that the deletion of the main studio rule does not in any way limit or reduce broadcast licensees' obligation and responsibility to retain and maintain control over essential station matters, such as personnel, programming, and finances. The Commission expects that broadcast licensees will continue to be able to demonstrate such control notwithstanding the elimination of the main studio rule and the staffing requirements associated with the main studio rule.

[15] In that order, the Commission recognized the limited utility of the program origination requirement by deleting its rule requiring each broadcast station to originate more than 50 percent of its non-network programs from its main studio or other points within its community of license.

[16] For this reason, we reject the assertion that a main studio's most important function is program origination capability.

[17] Implicit in the requirement to maintain a local or toll-free number is the requirement that phone calls made to this number be answered during business hours. We encourage broadcasters to use voicemail or another way for consumers to leave messages outside of stations' normal business hours.

stations by community members upon elimination of the main studio rule.[18] We find that retaining the existing rule is an appropriate means to ensure that members of the public can easily contact station representatives and receive timely responses.[19]

16. Stations currently are required to post their telephone numbers in their online public files.[20] We retain that requirement and do not require stations to publicize their phone numbers in any additional ways. We agree with commenters that broadcasters have extensive marketplace incentives and license obligations to be accessible and responsive to their audience, and we note that telephone numbers by their nature generally are accessible in other ways. Broadcasters will retain the flexibility to determine whether they want to publicize their telephone numbers in additional ways. For example, most stations already choose to post their telephone numbers on their Web sites.

17. Furthermore, in the NPRM, the Commission sought comment on whether additional requirements are needed to ensure that broadcasters are responsive to time-sensitive and emergency information. Because broadcasters already coordinate with federal, state, and local emergency management officials, as well as law enforcement officials, to address emergencies that occur at any time of day, we conclude that there is no need to adopt additional requirements pertaining to broadcast station responsiveness to time-sensitive or emergency information.[21] While some commenters reference such requirements, other commenters persuasively explain that broadcasters already have processes in place to ensure that station personnel are available to receive and broadcast time-sensitive emergency information. On balance, we conclude that the adoption of additional rules would not necessarily improve broadcasters' responsiveness to local emergencies, and we thus find that there is no evidence that the cost of such obligations would be justified by any purported benefits.

18. As discussed below, and as supported by NAB and other broadcasters, we require every broadcast station applicant, permittee, or licensee to maintain any portion of its public file that is not part of the online public file at an accessible place within its community of license. Pursuant to the Commission's online public file rules, in the very near future there will be only limited instances in which any portion of a station's public inspection file will be permitted to be maintained at the station's main studio rather than online.[22] In 2012, the Commission adopted rules requiring television broadcasters to utilize an online public file hosted by the Commission, rather than maintaining the public file locally, and television stations completed their transition to the online public file in 2014. In 2016, the Commission adopted rules expanding the online public file requirement to broadcast radio licensees. As of June 24, 2016, commercial broadcast radio stations in the top 50 Nielsen Audio radio markets with five or more full-time employees were required to place new public and political file documents in the online public file on a going-forward basis. By December 24, 2016, these entities were required to upload their existing public file documents to the online file, except for existing political file material which they may either upload or maintain locally until the expiration of the two-year retention period for such political file material. Beginning March 1, 2018, all other broadcast radio stations[23] must place new public and political file documents in the online public file on a going-forward basis. They must also upload their existing public file documents to the online file by that date, except for existing political file material which they may either upload or maintain locally until the expiration of the two-year retention period for such political file material. In other words, community members already have online access to television station public files, and by March 1, 2018 they will have online access to radio station public files, with the potential exception of preexisting portions of the political file that the station may retain locally until the expiration of the two-year retention period for such materials.

19. Nonetheless, we recognize the need to ensure that community members have local access to a station's public file for any timeframe during which all or a portion of that file is not available via the online public file. Accordingly, we require every broadcast station applicant, permittee, or licensee to maintain any portion of its public file that is not part of the online public file at an accessible place within its community of license. NAB and other broadcasters support this approach. The ''accessible place'' could be a station office or studio, if it is located within the community of license, or it could be a different location such as a local library or another station's office or studio. The file must be available for public inspection at any time during regular business hours, as is currently the case with regard to access to a public file maintained at a station's main studio.[24] If a station has transitioned to the online public file with the exception of its existing political file materials, which certain stations may maintain locally until the two-year retention period expires as discussed above, then the station must maintain a copy of its existing political file materials at an accessible place within its community of license until it is no longer required to retain those materials.[25] We note that any station

[18] We recognize that there is some cost to stations of maintaining a local or toll-free telephone number, but we find that on balance the relatively limited cost is outweighed by the benefit of ensuring that the station remains accessible to local community members.

[19] NFIB has proposed instead that the Commission adopt a functional requirement that each station ''ensure that persons in its community of license have a reasonable opportunity to communicate with the station through at least one generally available means of communication at no charge.'' We find that such an approach would be unworkable for consumers who do not use email and thus would have no way to contact a station if the station eliminates its local main studio. Accordingly, maintenance of the current telephone number requirement is a more practical approach.

[20] These rules also currently require a station to include its main studio address, and as discussed below we modify them to require the public file to include the station's address (rather than its main studio address). The posted address should be a location at which the licensee may be contacted by mail and in person, for example, a studio, office, or headquarters.

[21] Nothing in this R&O is intended to alter the obligation on licensees to post a written document designating the station's Chief Operator along with the posted copy of the station's license, as set forth in 47 CFR 73.1870(b)(3).

[22] Sections 73.3526(e) and 73.3527(e) of the Commission's rules set forth the required contents of the station's public inspection file. These contents include the ''political file,'' which consists of the records required to be maintained under § 73.1943 of our rules concerning broadcasts by candidates for public office.

[23] This includes NCE broadcast radio stations, commercial broadcast radio stations in the top 50 Nielsen Audio radio markets with fewer than five full-time employees, and commercial broadcast radio stations in markets below the top 50 or outside all markets.

[24] The other requirements of existing §§ 73.3526(c)(1) and 73.3527(c)(1) of our rules also will apply to the selected location of the public file within the community of license. Sections 73.3526(b) and 73.3527(b) of our rules currently contain multiple references to the hard copy public inspection file maintained at a station or at the station's main studio, and we will revise this language instead to reference retention of the file at an accessible place in the community of license (with the exception of references that are limited to timeframes in the past).

[25] Urban One states, ''a radio station that has voluntarily uploaded all political materials that are required to be maintained to its online file should have no obligation to make public file material available other than online.'' As explained above, certain stations may locally retain political file materials that were existing as of a certain date,

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that wishes to avoid this requirement has the option to instead fully transition to the Commission's online public file system.

20. In addition, if a broadcast station currently maintains its local public file at a main studio that complies with the current main studio rule but is not within the station's community of license, and if the station retains that studio, we will grandfather that studio as a permissible location for the station's local public file for the period before completion of the station's transition to the online public file.[26] Similarly, some existing waivers of the main studio rule permit stations to maintain their public files at the station's main studio outside the community of license.[27] We also will grandfather any such studio as a permissible location for the station's local public file for the period before completion of the station's transition to the online public file. This approach will ensure that stations with current waivers do not face increased burdens as a result of the elimination of the main studio rule.

21. A community member seeking access to a station's public inspection file in the community of license may contact the station to inquire as to the location of the file, for example via its required telephone number or email. Stations must promptly provide information regarding the location of the file within one business day of a request. In addition, we encourage stations that make public file materials available at an accessible place in the community to provide that location on their Web site, if they have a Web site, and by any other means that the station deems effective.

22. In the NPRM, the Commission sought comment on whether alternatively it should only eliminate the main studio rule for stations that have fully transitioned all public file material to the online public file, including existing political file materials. While some commenters support this alternate approach, we agree with NAB that we should not limit in this manner the public interest benefits that will follow the elimination of the main studio rule.[28] The later March 1, 2018 online public file deadline generally applies to smaller stations.[29] Some of these entities may be most adversely impacted by the costs of complying with the current main studio rule, and we conclude that we should not disadvantage them by denying them the benefits of the repeal of the rule. As discussed above, the costs savings of eliminating the rule will be significant and will apply to all types of broadcast stations. Given our decision to require maintenance of paper files at an accessible location in the community if they are not available via the online public file, the benefits of retaining the main studio rule for those stations that do not use the online public file would be minimal, if they exist at all. Indeed, in many cases the station may locate its file at its current main studio, and in other cases we expect that the selected local file location will be equally, if not more, convenient to residents as compared to the station's current main studio. For example, if a station previously maintained its main studio outside of its community of license, as permitted under the current rule, and the station chooses to cease operating that local studio as a result of this R&O, then it may be more convenient for community members to access the local file at a location within the community of license, as we require here.

23. As a result of our repeal of the main studio rule, we also will make the following conforming rule revisions as shown in the Final Rules:

- In § 1.80, delete the row of the chart detailing the base forfeiture amount for violations of the main studio rule.[30]
- In § 1.1104, delete the four rows detailing the schedule of charges for a ''Main Studio Request,'' and re-letter the remaining listings accordingly.
- In the definition of ''equipment performance measurements'' in § 73.14 of our rules, delete ''at main studio.''
- Delete § 73.761(d) of our rules, which currently governs formal applications for a change in main studio location, and renumber the remainder of the rule.
- In § 73.1400(a)(1)(ii) of our rules, change the reference to ''the main studio or other location'' to ''a studio or other location.''
- Delete § 73.1690(c)(8)(ii) of our rules, which currently states that both commercial and NCE FM stations must comply with the main studio rule, and renumber the remainder of the rule.
- Delete § 73.1690(d)(1) of our rules, which currently governs permissive changes in studio location, and renumber the remainder of the rule.
- Modify §§ 73.3526(b)(2)(ii) and 73.3527(b)(2)(iii) of our rules, which currently require the public file to include the station's main studio address and telephone number, instead to require the public file to include the station's address and telephone number.[31]
- Delete the reference to ''main studio'' in §§ 73.3526(e)(4) and 73.3527(e)(3) of our rules, which currently require inclusion of information showing service contours and/or main studio and transmitter location in the public file.
- Delete § 73.3538(b)(2) of our rules, which currently governs informal applications to relocate a main studio, and renumber the remainder of the rule.
- Delete § 73.3544(b)(3) of our rules, which currently governs informal applications for a change in location of the main studio, and renumber the remainder of the rule.[32]

rather than uploading them to the online public file, until the expiration of the two-year retention period for those materials. To the extent Urban One is arguing that we should permit stations to include new political file materials in the online public file, but not to make existing political file materials available either locally or through the online public file, we disagree. To the contrary, we find that it is important to ensure that community members have local access to all portions of the public inspection file that are not part of the online public file. If it is too inconvenient or costly to maintain these materials locally, then a station may choose to post them to the online public file instead. In addition, we note that a change to the material that is required to be part of a station's public file is outside the scope of this proceeding.

[26] Sections 73.3526(c)(2) and 73.3527(c)(2) of our rules currently govern access to material in the public file by mail where the applicant, permittee, or licensee maintains its main studio and public file outside its community of license. These current rules will remain in place, but we will delete the phrase ''main studio and,'' such that the provisions will be triggered if an applicant, permittee, or licensee maintains its public file outside its community of license because the station's studio is grandfathered as a permissible location for the file, as discussed herein.

[27] Some main studio waivers reference a licensee pledge to maintain the public file in the community of license, while others permit the licensee to maintain the public file at the main studio subject to the waiver.

[28] In addition, we will not adopt the proposal of one commenter that we only permit stations to eliminate their current main studios if they make their public file available both online and at a business or library in the station's community of license. Given that it is sufficient for a station currently to make its public file available online only, we see no reason to require an additional means of access if the station eliminates its current main studio and its entire public file is available through the Commission's online public file.

[29] The deadline applies to NCE broadcast radio stations, commercial broadcast radio stations in the top 50 Nielsen Audio radio markets with fewer than five full-time employees, and commercial broadcast radio stations in markets below the top 50 or outside all markets.

[30] We will continue to rely on the base forfeiture amount of $7000 as a starting point in assessing a forfeiture for any violations of the main studio rule that occurred before the effective date of the elimination of the rule.

[31] As stated above, the posted address should be a location at which the licensee may be contacted by mail and in person, for example, a studio, office, or headquarters.

[32] We also adopt the proposal to delete the outdated reference in § 73.1690(d)(2) to § 73.1410, which has been deleted.

• In the alphabetical index to part 73, delete the four rows that reference § 73.1125.

24. We also will delete § 73.6000(3) of our rules and will require Class A stations to meet the required quantity of ''locally produced programming'' through programming that complies with § 73.6000(1) or (2). Consistent with the Community Broadcasters Protection Act of 1999, § 73.6001(b)(2) requires Class A stations to broadcast an average of at least three hours of locally produced programming per week each quarter. Section 73.6000 defines locally produced programming for these purposes as programming that is:

(1) Produced within the predicted Grade B contour of the station broadcasting the program or within the contiguous predicted Grade B contours of any of the stations in a commonly owned group; or

(2) Produced within the predicted DTV noise-limited contour . . . of a digital Class A station broadcasting the program or within the contiguous predicted DTV noise-limited contours of any of the digital Class A stations in a commonly owned group; or

(3) Programming produced at the station's main studio.

Upon deletion of the main studio rule, we find that it is appropriate to delete option (3). Options (1) and (2) are sufficiently broad that it should not be difficult for Class A stations to meet the required quantity of locally produced programming.[33] Our approach will alleviate the concern of Free Press that eliminating the main studio rule would ''effectively nullify'' the Class A requirement pertaining to the quantity of locally produced programming.

25. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM. The Commission sought written public comments on proposals in the NPRM, including comment on the IRFA. The Commission received no comments on the IRFA, although some commenters discussed the effect of the proposals on smaller entities. The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. In summary, the R&O adopts the proposal to eliminate the Commission's main studio rule and existing requirements associated with the main studio rule. The R&O is authorized pursuant to sections 4(i), 4(j), 303, 307(b), and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303, 307(b), 336(f). The types of small entities that may be affected by the R&O fall within the following categories: Television Broadcasting, Radio Stations. The projected reporting, recordkeeping, and other compliance requirements are: (1) The elimination of the rule requiring each AM, FM, and television broadcast station to maintain a local main studio; (2) the elimination of the associated staffing and program origination capability requirements; (3) retention of the existing requirement that broadcasters maintain a local or toll-free telephone number; (4) a requirement that stations maintain any portion of their public file that is not part of the online public file at a publicly accessible location within the community of license, unless the current main studio is grandfathered as a permissible location for the station's local public file for the period before completion of the station's transition to the online public file because (a) the station currently maintains its local public file at a main studio that complies with the current main studio rule but is not within the station's community of license, or (b) the station has an existing waiver of the main studio rule that permits the station to maintain its public files at the station's main studio outside the community of license. The Chief Counsel for Advocacy of the Small Business Administration (SBA) did not file any comments in response to the proposed rules in this proceeding. Elimination of the existing requirements pertaining to the location of the main studio of each AM, FM, and television broadcast station, as well as the elimination of associated staffing and program origination requirements, will eliminate requirements that may be outdated and unnecessarily burdensome on all broadcast stations, including small entities. The Commission considered whether it should adopt additional requirements pertaining to publicizing or staffing the required telephone number or responding to time-sensitive or emergency information. While some commenters advocated such alternative approaches, the Commission concluded that the burdens of any such additional requirements are unjustified. Separately, while the Commission could simply adopt the requirement pertaining to the location of the public file, instead it has taken the alternate approach of providing broadcast stations with additional flexibility that will reduce costs by grandfathering certain existing studios as a permissible location for the station's local public file. In the R&O, the Commission explains its rejection of an alternate approach pursuant to which it could only eliminate the main studio rule for stations that have fully transitioned all public file material to the online public file material, stating that such an approach would disadvantage the smaller entities that may be most impacted by the costs of complying with the current main studio rule.

26. This document contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13.[34] It will be submitted to OMB for review under section 3507(d) of the PRA. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

27. The Commission will send a copy of this R&O 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).

28. Accordingly, *it is ordered* that, pursuant to the authority found in sections 4(i), 4(j), 303, 307(b), and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303, 307(b), and 336(f), this Report and Order *is hereby adopted.*

29. *It is further ordered* that parts 1 and 73 of the Commission's rules, 47 CFR parts 1 and 73, *are amended,* and such rule amendments shall be effective January 8, 2018, except for §§ 73.3526(c)(1) and 73.3527(c)(1), which contain new or modified information collection requirements, and which shall become effective after the Commission publishes a document in the **Federal Register** announcing OMB approval and the relevant effective date.

[33] The Commission grandfathered certain main studios that did not comply with the main studio rule when it implemented the Community Broadcasters Protection Act of 1999 creating the Class A service. For those Class A stations currently operating at grandfathered main studios that are outside the locations described in § 73.6000(1)–(2) of our rules, we will continue to consider programming produced at that previously grandfathered main studio to be locally produced.

[34] *See* attached Final Rules, revising §§ 73.3526(c)(1) and 73.3527(c)(1) of our rules to add, ''The applicant, permittee, or licensee must provide information regarding the location of the file, or the applicable portion of the file, within one business day of a request for such information.'' In addition to those new information collection requirements, which we will submit to OMB via a non-substantive change request, following adoption of this R&O the Commission also will submit to the Office of Management and Budget (OMB) a notice of discontinuance to reflect the deletion of the main studio rule and its associated information collection requirements.

30. *It is further ordered* that the Commission *shall send* a copy of this 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).

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Penalties, Radio, Reporting and recordkeeping requirements, Television.

47 CFR Part 73

Radio, Reporting and recordkeeping requirements, Television.

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 and 73 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, 309, 310, 332, 1403, 1404, 1451, 1452, and 1455.

§ 1.80 [Amended]

■ 2. In § 1.80, the table titled ''Violations Unique to the Service'' is amended by removing the entry for ''Violation of main studio rule.''

§ 1.1104 [Amended]

■ 3. In § 1.1104, the table is amended as follows:

■ a. Under ''1. Commercial TV Services,'' remove the entry for ''c. Main Studio Request'' and redesignate entries ''d'' through ''k'' as entries ''c'' through ''j;''

■ b. Under ''2. Commercial AM Radio Stations,'' remove the entry for ''c. Main Studio Request (per request)'' and redesignate entries ''d'' through ''l'' as entries ''c'' through ''k;''

■ c. Under ''3. Commercial FM Radio Stations,'' remove the entry for ''c. Main Studio Request (per request)'' and redesignate entries ''d'' through ''l'' as entries ''c'' through ''k;'' and

■ d. Under ''8. Class A TV Services,'' remove the entry for ''g. Main Studio Request'' and redesignate entry ''h'' as entry ''g.''

PART 73—RADIO BROADCAST SERVICES

■ 4. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 309, 310, 334, 336, and 339.

■ 5. In § 73.14, revise the definition of ''Equipment performance measurements'' to read as follows:

§ 73.14 AM broadcast definitions.

* * * * *

Equipment performance measurements. The measurements performed to determine the overall performance characteristics of a broadcast transmission system from point of program origination to sampling of signal as radiated. (See § 73.1590)

* * * * *

§ 73.761 [Amended]

■ 6. In § 73.761, remove paragraph (d) and redesignate paragraphs (e) through (g) as paragraphs (d) through (f).

■ 7. Revise § 73.1125 to read as follows:

§ 73.1125 Station telephone number.

Each AM, FM, TV, and Class A TV broadcast station shall maintain a local telephone number in its community of license or a toll-free number.

■ 8. In § 73.1400, revise paragraph (a)(1)(ii) to read as follows:

§ 73.1400 Transmission system monitoring and control.

* * * * *

(a) * * *

(1) * * *

(ii) Remote control of the transmission system by a person at a studio or other location. The remote control system must provide sufficient transmission system monitoring and control capability so as to ensure compliance with § 73.1350.

* * * * *

■ 9. Amend § 73.1690 as follows:

■ a. Revise paragraph (c)(8) introductory text;

■ b. Remove paragraph (c)(8)(ii);

■ c. Redesignate paragraphs (c)(8)(iii) through (vi) as paragraphs (c)(8)(ii) through (v);

■ d. Remove paragraph (d)(1);

■ e. Redesignate paragraphs (d)(2) and (3) as paragraphs (d)(1) and (2); and

■ f. Revise newly redesignated paragraph (d)(1).

The revisions read as follows.

§ 73.1690 Modification of transmission systems.

* * * * *

(c) * * *

(8) FM commercial stations and FM noncommercial educational stations may decrease ERP on a modification of license application provided that exhibits are included to demonstrate that all five of the following requirements are met:

* * * * *

(d) * * *

(1) Commencement of remote control operation pursuant to § 73.1400.

* * * * *

■ 10. In § 73.3526:

■ a. Revise paragraphs (b)(1) and (2);

■ b. In paragraph (b)(3)(i), remove ''the station'' and add in its place ''an accessible place in the community of license''; and

■ c. Revise paragraphs (b)(3)(ii) and (iii), (c)(1), (c)(2) introductory text, and (e)(4).

The revisions read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *

(b) * * *

(1) For radio licensees temporarily exempt from the online public file hosted by the Commission, as discussed in paragraph (b)(2) of this section, a hard copy of the public inspection file shall be maintained at an accessible place in the community of license, unless the licensee elects voluntarily to place the file online as discussed in paragraph (b)(2) of this section. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license. If as of January 8, 2018 a broadcast station maintains a hard copy of all or a portion of its public inspection file at a main studio that either complied with the Commission's main studio rule (47 CFR 73.1125 (2016)) but is not within the station's community of license, or was deemed a permissible location for the station's public inspection file pursuant to a waiver of the main studio rule, and if the station retains that studio, then that studio is a permissible location for the station's hard copy public inspection file. Any reference in this section to ''an accessible place in the community of license'' shall be deemed to include such a studio.

(2)(i) A television station licensee or applicant, and any radio station licensee or applicant not temporarily exempt as described in this paragraph (b)(2)(i), shall place the contents required by paragraph (e) of this section of its public inspection file in the online public file hosted by the Commission, with the exception of the political file as required by paragraph (e)(6) of this section, as discussed in paragraph (b)(3) of this

section. Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the public inspection file at an accessible place in the community of license in the manner discussed in paragraph (b)(1) of this section until March 1, 2018. However, any radio station that is not required to place its public inspection file in the online public file hosted by the Commission before March 1, 2018 may choose to do so, instead of retaining the public inspection file at an accessible place in the community of license in the manner discussed in paragraph (b)(1) of this section.

(ii) A station must provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the station has a Web site, and provide contact information on its Web site for a station representative that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file the station's address and telephone number, and the email address of the station's designated contact for questions about the public file. To the extent this section refers to the local public inspection file, it refers to the public file of an individual station, which is either maintained at an accessible place in the community of license or on the Commission's Web site, depending upon where the documents are required to be maintained under the Commission's rules.

(3) * * *

(ii) Any television station not in the top 50 DMAs, and any station not affiliated with one of the top four broadcast networks, regardless of the size of the market it serves, shall continue to retain the political file at the station in the manner discussed in paragraph (b)(1) of this section until July 1, 2014. For these stations, effective July 1, 2014, any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of July 1, 2014, if not placed in the Commission's Web site, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any station that is not required to place its political file in the online file hosted by the Commission before July 1, 2014 may choose to do so, instead of retaining the political file at the station in the manner discussed in paragraph (b)(1) of this section. For purposes of this paragraph (b)(3)(ii), the ''manner discussed in paragraph (b)(1) of this section'' refers to maintaining a hard copy of the public inspection file at the main studio of the station as described in paragraph (b)(1) prior to January 8, 2018. *See* 47 CFR 73.3526(b)(1) (2016).

(iii) Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the political file at an accessible place in the community of license in the manner discussed in paragraph (b)(1) of this section until March 1, 2018. For these stations, effective March 1, 2018, any new political file material shall be placed in the online public file hosted by the Commission, while the material already existing in the political file as of March 1, 2018, if not placed in the online public file hosted by the Commission, shall continue to be retained at an accessible place in the community of license in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any station that is not required to place its political file on the Commission's Web site before March 1, 2018, may choose to do so, instead of retaining the political file at an accessible place in the community of license in the manner discussed in paragraph (b)(1) of this section.

* * * * *

(c) * * *

(1) For any applicant, permittee, or licensee that does not include all material described in paragraph (e) of this section in the online public file hosted by the Commission, the portion of the file that is not included in the online public file shall be available for public inspection at any time during regular business hours at an accessible place in the community of license. The applicant, permittee, or licensee must provide information regarding the location of the file, or the applicable portion of the file, within one business day of a request for such information. All or part of the file may be maintained in a computer database, as long as a computer terminal is made available, at the location of the file, to members of the public who wish to review the file. Material in the public inspection file shall be made available for printing or machine reproduction upon request made in person. The applicant, permittee, or licensee may specify the location for printing or reproduction, require the requesting party to pay the reasonable cost thereof, and may require guarantee of payment in advance (*e.g.,* by requiring a deposit, obtaining credit card information, or any other reasonable method). Requests for copies shall be fulfilled within a reasonable period of time, which generally should not exceed 7 days.

(2) The applicant, permittee, or licensee who maintains its public file outside its community of license (see paragraph (b)(1) of this section) shall:

* * * * *

(e) * * *

(4) *Contour maps.* A copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station.

* * * * *

■ 11. In § 73.3527, revise paragraphs (b)(1) and (2), (c)(1), (c)(2) introductory text, and (e)(3) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *

(b) * * *

(1) For radio licensees, a hard copy of the public inspection file shall be maintained at an accessible place in the community of license until March 1, 2018, except that, as discussed in paragraph (b)(2)(ii) of this section, any radio station may voluntarily place its public inspection file in the online public file hosted by the Commission before March 1, 2018, if it chooses to do so, instead of retaining the file at an accessible place in the community of license. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license. If as of January 8, 2018 a broadcast station maintains a hard copy of all or a portion of its public inspection file at a main studio that either complied with the Commission's main studio rule (47 CFR 73.1125 (2016)) but is not within the station's community of license, or was deemed a permissible location for the station's public inspection file pursuant to a waiver of the main studio rule, and if the station retains that studio, then that studio is a permissible location for the station's hard copy public inspection file. Any reference in this section to ''an accessible place in the community of license'' shall be deemed to include such a studio.

(2)(i) A noncommercial educational television station licensee or applicant shall place the contents required by paragraph (e) of this section of its public inspection file in the online public file

hosted by the Commission, with the exception of the political file as required by paragraph (e)(5) of this section, which may be retained at the station in the manner discussed in paragraph (b)(1) of this section until July 1, 2014. Effective July 1, 2014, any new political file material shall be placed in the online public file hosted by the Commission, while the material in the political file as of July 1, 2014, if not placed in the Commission's online public file, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any noncommercial educational station that is not required to place its political file in the online public file hosted by the Commission before July 1, 2014 may choose to do so instead of retaining the political file at the station in the manner discussed in paragraph (b)(1) of this section. For purposes of this paragraph (b)(2)(i), the ''manner discussed in paragraph (b)(1) of this section'' refers to maintaining a hard copy of the public inspection file at the main studio of the station as described in paragraph (b)(1) prior to January 8, 2018. *See* 47 CFR 73.3527(b)(1) (2016).

(ii) Beginning March 1, 2018, noncommercial educational radio station licensees and applicants shall place the contents required by paragraph (e) of this section in the online public inspection file hosted by the Commission. For these stations, effective March 1, 2018, any new political file material shall be placed in the Commission's online public file, while the material in the political file as of March 1, 2018, if not placed in the Commission's online public file, shall continue to be retained at an accessible place in the community of license in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any radio station that is not required to place its public inspection file in the online public file hosted by the Commission before March 1, 2018, may choose to do so, instead of retaining the public inspection file at an accessible place in the community of license in the manner discussed in paragraph (b)(1) of this section.?≤

(iii) A station must provide a link to the online public inspection file hosted by the Commission from the home page of its own Web site, if the station has a Web site, and provide contact information for a station representative on its Web site that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file hosted by the Commission the station's address and telephone number, and the email address of the station's designated contact for questions about the public file. To the extent this section refers to the local public inspection file, it refers to the public file of an individual station, which is either maintained at an accessible place in the community of license or on the Commission's Web site, depending upon where the documents are required to be maintained under the Commission's rules.

* * * * *

(c) * * *

(1) For any applicant, permittee, or licensee that does not include all material described in paragraph (e) of this section in the online public file hosted by the Commission, the portion of the file that is not included in the online public file shall be available for public inspection at any time during regular business hours at an accessible place in the community of license. The applicant, permittee, or licensee must provide information regarding the location of the file, or the applicable portion of the file, within one business day of a request for such information. All or part of the file may be maintained in a computer database, as long as a computer terminal is made available, at the location of the file, to members of the public who wish to review the file. Material in the public inspection file shall be made available for printing or machine reproduction upon request made in person. The applicant, permittee, or licensee may specify the location for printing or reproduction, require the requesting party to pay the reasonable cost thereof, and may require guarantee of payment in advance (*e.g.,* by requiring a deposit, obtaining credit card information, or any other reasonable method). Requests for copies shall be fulfilled within a reasonable period of time, which generally should not exceed 7 days.

(2) The applicant, permittee, or licensee who maintains its public file outside its community of license (see paragraph (b)(1) of this section) shall:

* * * * *

(e) * * *

(3) *Contour maps.* A copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station.

* * * * *

■ 12. In § 73.3538, revise paragraph (b) to read as follows:

§ 73.3538 Application to make changes in an existing station.

* * * * *

(b) An informal application filed in accordance with § 73.3511 is to be used to obtain authority to modify or discontinue the obstruction marking or lighting of the antenna supporting structure where that specified on the station authorization either differs from that specified in 47 CFR part 17, or is not appropriate for other reasons.

§ 73.3544 [Amended]

■ 13. In § 73.3544, remove paragraph (b)(3) and redesignate paragraph (b)(4) as paragraph (b)(3).

■ 14. Revise § 73.6000 to read as follows:

§ 73.6000 Definitions.

For the purpose of this subpart, the following definition applies:

Locally produced programming is programming:

(1) Produced within the predicted Grade B contour of the station broadcasting the program or within the contiguous predicted Grade B contours of any of the stations in a commonly owned group; or

(2) Produced within the predicted DTV noise-limited contour (*see* § 73.622(e)) of a digital Class A station broadcasting the program or within the contiguous predicted DTV noise-limited contours of any of the digital Class A stations in a commonly owned group.

Note to § 73.6000: *See Report and Order,* In the Matter of Establishment of a Class A Television Service, MM Docket No. 00–10, released April 4, 2000; *Memorandum Opinion and Order on Reconsideration,* In the Matter of Establishment of a Class A Television Service, MM Docket No. 00–10, released April 13, 2001; *Report and Order,* In the Matter of Elimination of Main Studio Rule, MB Docket No. 17–106, released October 24, 2017.

Alphabetical Index—[Amended]

■ 15. In the alphabetical index for part 73, remove the entries for ''Location, Main studio,'' ''Main studio location,'' ''Station, main studio location,'' and ''Studio location, Main.''

[FR Doc. 2017–24982 Filed 12–7–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150121066–5717–02]

RIN 0648–XF868

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; closure of the General category fishery.

SUMMARY: NMFS closes the General category fishery for large medium and giant (*i.e.,* measuring 73 inches curved fork length or greater) Atlantic bluefin tuna (BFT) for the December subquota time period and thus for the remainder of 2017. The intent of this closure is to prevent overharvest of the available December subquota of 12.7 mt and the adjusted 2017 General category quota of 688.7 metric tons (mt).

DATES: Effective 11:30 p.m., local time, December 6, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments.

NMFS is required, under § 635.28(a)(1), to file a closure notice with the Office of the Federal Register for publication when a BFT quota (or subquota) is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year or for a specified period as indicated in the notification, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

The base quota for the General category is 466.7 mt. See § 635.27(a). To date this year, NMFS has adjusted the General category base quota for 2017 three times, including a transfer of 40 mt from the Reserve category effective March 2 (82 FR 12747, March 7, 2017), a transfer of 156.4 mt from the Reserve category effective September 28 (82 FR 46000, October 3, 2017), and a transfer of 25.6 mt from the Harpoon category effective December 1 (82 FR 55520, November 22, 2017). The third transfer resulted in an adjusted General category December subquota of 12.7 mt and an adjusted 2017 General category quota of 688.7 mt.

Based on the best available landings information for the General category BFT fishery, NMFS has determined that the available December subquota of 12.7 mt has been reached, as has the overall adjusted General category quota of 688.7 mt. Therefore, retaining, possessing, or landing large medium or giant BFT by persons aboard vessels permitted in the Atlantic tunas General and HMS Charter/Headboat categories must cease at 11:30 p.m. local time on December 6, 2017. The General category will reopen automatically on January 1, 2018, for the January through March 2018 subperiod. This action applies to Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels and is taken consistent with the regulations at § 635.28(a)(1). The intent of this closure is to prevent overharvest of the available 2017 General category quota.

Fishermen may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize their survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *www.nmfs.noaa.gov/sfa/hms/.*

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustment, as well as closures, and may result in enforcement actions. General and Charter/Headboat category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov* or by using the HMS Catch Reporting App.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. These fisheries are currently underway and delaying this action would be contrary to the public interest as it could result in excessive BFT landings that may result in future potential quota reductions for the General category. NMFS must close the General category fishery for 2017 to prevent overharvest of the available quota. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.28(a)(1) (BFT Fishery Closures), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: December 5, 2017.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–26492 Filed 12–5–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 235
Friday, December 8, 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.

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R–1585; RIN 7100–AE 90]

Regulation A: Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') is proposing to amend its Regulation A to; revise the provisions regarding the establishment of the primary credit rate in a financial emergency, and to delete the provisions relating to the use of credit ratings for collateral for extensions of credit under the former Term Asset-Backed Securities Loan Facility (TALF). The proposed amendments are intended to allow the regulation to address circumstances in which the Federal Open Market Committee has established a target range for the federal funds rate rather than a single target rate, and to reflect the expiration of the TALF program.

DATES: Comments must be received no later than January 8, 2018.

ADDRESSES: You may submit comments, identified by Docket Number R–1585; RIN 7100 AE–90, 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 number 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.

All public comments are available from 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 Street NW.), between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Special Counsel, (202–452–3565), Legal Division, or Lyle Kumasaka, Senior Financial Analyst, 202–452–2382), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202/263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary, secondary, and seasonal credit available to depository institutions subject to rules and regulations prescribed by the Board. The primary, secondary, and seasonal credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. Under the primary credit program, Federal Reserve Banks may extend credit on a very short-term basis, typically overnight, to depository institutions that are in generally sound condition in the judgment of the Federal Reserve Bank. In accordance with the Federal Reserve Act, the primary credit rate is established by the boards of directors of the Federal Reserve Banks, subject to the review and determination of the Board. The primary credit rate is set forth in section 201.51 of Regulation A.

I. Primary Credit Rate in a Financial Emergency

Regulation A currently provides a procedure for establishing the primary credit rate in a financial emergency. Section 201.51(d) of Regulation A currently provides that the primary credit rate at a Federal Reserve Bank is ''the target federal funds rate of the Federal Open Market Committee'' if two conditions are met.[1] First, in a financial emergency the Reserve Bank must have established the primary credit rate at that rate.[2] Second, the chairman of the Board of Governors (or, in the chairman's absence, the chairman's designee) must certify that a quorum of the Board is not available to act on the Reserve Bank's rate establishment.[3] Finally, Regulation A defines a ''financial emergency'' as ''a significant disruption to the U.S. money markets resulting from an act of war, military or terrorist attack, natural disaster, or other catastrophic event.''[4]

The Federal Open Market Committee (FOMC) currently establishes a target range for the federal funds rate. Accordingly, the Board proposes to amend section 201.51(d)(1) of Regulation A to provide that, in a financial emergency, the primary credit rate is the target federal funds rate or, if the FOMC has established a target range for the federal funds rate, a rate corresponding to the top of the target range.

II. Credit Ratings for TALF

On November 25, 2008, the Board and Treasury announced the establishment of the TALF. The TALF was intended to assist financial markets in accommodating the credit needs of consumers and businesses of all sizes during the financial crisis by facilitating the issuance of asset-backed securities (''ABS'') collateralized by a variety of consumer and business loans; it was also intended to improve market conditions for ABS more generally. The Board authorized the TALF pursuant to the then-current provisions of section 13(3) of the Federal Reserve Act.[5] All TALF loans were extended by the Federal Reserve Bank of New York (''FRBNY'').[6]

On December 9, 2009, the Board adopted an amendment to Regulation A to provide a process by which the FRBNY could determine the eligibility of credit rating agencies and the ratings

[1] Section 201.51(d)(1) of Regulation A, 12 CFR 201.51(d)(1).

[2] Section 201.51(d)(1)(i) of Regulation A, 12 CFR 201.51(d)(1)(i).

[3] Section 201.51(d)(1)(ii) of Regulation A, 12 CFR 201.51(d)(1)(ii).

[4] Section 201.51(d)(2) of Regulation A, 12 CFR 201.51(d)(2).

[5] Former 12 U.S.C. 343.

[6] The U.S. Treasury Department—under the Troubled Assets Relief Program (TARP) of the Emergency Economic Stabilization Act of 2008—provided $20 billion of credit protection to the FRBNY in connection with the TALF. *See https://www.federalreserve.gov/monetarypolicy/talf.htm.*

they issue for use in the TALF, for which the Board had expressly set a particular credit rating requirement for collateral offered by the borrower.[7] The purpose of the amendment was to provide the FRBNY with a consistent framework for determining the eligibility of ratings issued by individual credit rating agencies when used in conjunction with a separate asset-level risk assessment process. Pursuant to this process, FRBNY determined that ratings from five credit ratings agencies became eligible for use in TALF.

On June 30, 2010, the TALF was closed for new loan extensions, and the final outstanding TALF loan was repaid in full in October 2014.[8] Accordingly, the Board proposes to delete current section 201.3(d) of Regulation A as its provisions are no longer necessary.

III. Administrative Law Matters

A. Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) to address concerns related to the effects of agency rules on small entities and the Board is sensitive to the impact its rules may impose on small entities. The RFA requires agencies either to provide an initial regulatory flexibility analysis with a proposed rule or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. Under regulations issued by the Small Business Administration (SBA), a depository institution is a ''small entity'' if it is an institution with assets of $550 million or less, determined by averaging the assets reported on its four quarterly financial statements for the preceding year. A credit rating agency is a ''small entity'' if it is a credit rating agency with $15 million or less in assets.

1. Description of Small Entities Affected

Section 201.51(d) of Regulation A. The proposed amendment to section 201.51(d) of Regulation A would affect depository institutions that are able to request primary credit from a Federal Reserve Bank and that have $550 million or less in assets, determined by averaging the assets reported on its four quarterly financial statements for the preceding year.[9] Currently, there are 1,567 depository institutions that are able to request primary credit that meet the definition of ''small'' business entity, out of a total of 2,808 institutions that are able to request primary credit.

Section 201.3(d) of Regulation A. The proposed amendment to section 201.3(d) of Regulation A, relates to use of credit ratings for borrowers under the TALF program. A small credit rating agency is one with $15.0 million or less in assets.[10]

2. Economic Impacts on Small Entities

The Board certifies that the proposed amendments will have no economic impacts on any small entities.

Section 201.51(d) of Regulation A. The proposed amendments to section 201.51(d) of Regulation A relate to the establishment of a rate for primary credit in a financial emergency. The proposed amendments make a ministerial amendment to conform the provision to the current operating framework of the FOMC in establishing a target range for the federal funds rate. The provision subject to the proposed amendments affects the actions of the Federal Reserve Banks and the Board, and requires no action or changes in procedures for any depository institution, large or small, and so there are no costs associated with the proposed amendments. In addition, the proposed amendments clarify the operation of the provision for reducing the primary credit rate in a financial emergency from its current level to a lower level based on the target federal funds rate or the target range for the federal funds rate. Any economic impact of the proposed amendment on small entities would be beneficial because, if the emergency provision took effect, they would be able to obtain primary credit at an interest rate that would be lower than the existing primary credit rate. Accordingly, the Board believes that a reasonable basis exists for assuming costs would be *de minimis* or insignificant for small entities affected by the proposed amendment.

Section 201.3(d) of Regulation A. The proposed amendments to section 201.3(d) of Regulation A relate to deleting obsolete provisions applicable to credit extended under the TALF program. Since the TALF program no longer exists, the deletion of regulatory provisions governing the use of credit ratings in it will have no impact, economic or otherwise, on any credit ratings agency. Accordingly, the Board believes that a reasonable basis exists for assuming costs would be *de minimis* or insignificant for small entities affected by the proposed amendment.

B. Paperwork Reduction Act Analysis

Office of Management and Budget (OMB) regulations implementing the Paperwork Reduction Act (PRA) state that agencies must submit ''collections of information'' contained in proposed rules published for public comment in the **Federal Register** in accordance with OMB regulations. OMB regulations define a ''collection of information'' as obtaining, causing to be obtained, soliciting, or requiring the disclosure to an agency, third parties or the public of information by or for an agency ''by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, ten or more persons, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit.''

In accordance with the PRA, the Board reviewed the proposed rule under the authority delegated to the Board by OMB.

Section 201.51(d) of Regulation A. The proposed amendments to section 201.51(d) contain no requirements subject to the PRA. Specifically, the proposed amendments do not require any change to any collection of information related to the primary credit program under Regulation A, but apply only to the process by which the Federal Reserve Banks and the Board establish the primary credit rate in a financial emergency.

Section 201.3(d) of Regulation A. The proposed amendments to section 201.3(d) of Regulation A contain no requirements subject to the PRA.

C. Plain Language

Each Federal banking agency, including the Board, is required to use plain language in all proposed and final rulemakings published after January 1, 2000. 12 U.S.C. 4809. The Board has sought to present the proposed amendments, to the extent possible, in a simple and straightforward manner. The Board invites comment on whether there are additional steps that could be taken to make the proposed amendments easier to understand, such as with respect to the organization of the materials or the clarity of the presentation.

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

[7] 74 FR 65014 (December 9, 2009).

[8] *https://www.federalreserve.gov/monetarypolicy/talf.htm.*

[9] U.S. Small Business Administration, Table of Small Business Size Standards (eff. Oct. 1, 2017) at 28 (NAICS Codes 52110 (Commercial Banking), 52120 (Savings Institutions), 52130 (Credit Unions), and 52190) (Other Depository Credit Intermediation); *see id.* at 41 n. 8 (calculation of asset size).

[10] U.S. Small Business Administration, Table of Small Business Size Standards (eff. Oct. 1, 2017) at 33 (NAICS Code 561450 (Credit Bureaus)).

Authority and Issuance

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR Chapter II as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

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

Authority: 12 U.S.C. 248(i)–(j) and (s), 343 *et seq.,* 347a, 347b, 347c, 348 *et seq.,* 357, 374, 374a, and 461.

§ 201.3 [Amended]

■ 2. Section 201.3 is amended by removing paragraph (e).

■ 3. Section 201.51 is amended by revising paragraph (d)(1) introductory text to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.

* * * * *

(d) * * *

(1) The primary credit rate at a Federal Reserve Bank is the target federal funds rate of the Federal Open Market Committee or, if the Federal Open Market Committee has set a target range for the federal funds rate, the rate corresponding to the top of the target range, if:

* * * * *

By the Board of Governors of the Federal Reserve System, December 1, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–26465 Filed 12–7–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0953; Airspace Docket No. 17–AEA–15]

Proposed Amendment of Class E Airspace; Massena, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E surface airspace and Class E airspace extending upward from 700 feet above the surface at Massena, NY, as the Massena collocated VHF omnidirectional range tactical air navigation system (VORTAC) has been decommissioned, requiring airspace reconfiguration at Massena International-Richards Field Airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the airport. This action also would update the geographic coordinates of the airport.

DATES: Comments must be received on or before January 22, 2018.

ADDRESSES: Send comments on this rule to: U. S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg Ground Floor Rm W12–140, Washington, DC, 20590; Telephone: 1(800) 647–5527, or (202) 366–9826.You must identify the Docket No. FAA–2017–0953; Airspace Docket No. 17–AEA–15, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E surface airspace and Class E airspace extending upward from 700 feet above the surface at Massena International-Richards Field Airport, Massena, NY, to support IFR operations at the airport.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2017–0953; Airspace Docket No. 17–AEA–15) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2014–0953; Airspace Docket No. 17–AEA–15.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/*

airports_airtraffic/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points

The Proposal

The FAA is considering an amendment to title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E surface airspace and Class E airspace extending upward from 700 feet above the surface at Massena International-Richards Field Airport, Massena, NY. The segment within 1.8 miles each side of the Massena VORTAC 286° radial extending from the 4-mile radius to the VORTAC would be removed in Class E surface airspace; and the segment within 2.7 miles each side of the Massena VORTAC 106° radial extending from the 7.4-mile radius to 7 miles east of the VORTAC would be removed in Class E airspace extending upward from 700 feet above the surface, due to the decommissioning of the Massena VORTAC, and cancelation of associated approaches. This action would enhance the safety and management of IFR operations at the airport. The geographic coordinates of the airport also would be adjusted to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraphs 6002 and 6005 respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, effective September 15, 2017, is amended as follows:

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

AEA NY E2 Massena, NY [Amended]

Massena International-Richards Field Airport, NY

(Lat. 44°56′11″ N., long. 74°50′42″ W.)

Within a 4-mile radius of the Massena International-Richards Field Airport, excluding the airspace within Canada.

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

* * * * *

AEA NY E5 Massena, NY [Amended]

Massena International-Richards Field Airport, NY

(Lat. 44°56′11″ N., long. 74°50′42″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Massena International-Richards Field Airport, excluding the airspace within Canada.

Issued in College Park, Georgia, on November 29, 2017.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2017–26423 Filed 12–7–17; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 315

Public Workshop Examining Contact Lens Marketplace and Analyzing Proposed Changes to the Contact Lens Rule

AGENCY: Federal Trade Commission.

ACTION: Public workshop and request for public comment.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') is holding a public workshop relating to its December 7, 2016 Notice of Proposed Rulemaking (''NPRM'') announcing proposed changes to the Contact Lens Rule. The workshop will explore issues relating to competition in the contact lens marketplace, consumer access to contact lenses, prescription release and portability, and other issues raised in comments received in response to the NPRM.

DATES: The public workshop will be held on March 7, 2018, from 9:00 a.m. until 5:00 p.m., at the Constitution Center Conference Center, located at 400 7th Street SW., Washington, DC. Requests to participate as a panelist must be received by January 5, 2018. Any written comments related to the agenda topics or the issues discussed by the panelists at the workshop must be received by April 6, 2018.

ADDRESSES: Interested parties may file a comment or a request to participate as a panelist online or on paper, by following the instructions in the Filing Comments and Requests to Participate

as a Panelist part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Contact Lens Rule, 16 CFR part 315, Comment, Project No. R511995'' on your comment and ''Contact Lens Rule, 16 CFR part 315, Request to Participate, Project No. R511995'' on your request to participate as a panelist. File your comment online at *https://ftcpublic.commentworks.com/ftc/contactlensworkshop* by following the instructions on the web-based form. File your request to participate as a panelist by email to: *contactlensworkshop2018@ftc.gov*. If you prefer to file your comment or request to participate on paper, mail your comment or request to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex F), or deliver your comment or request to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex F), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Elizabeth Delaney, Attorney, 202–326–2903, or Alysa Bernstein, Attorney, 202–326–3289, Federal Trade Commission, Division of Advertising Practices, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

In 2003, Congress enacted the Fairness to Contact Lens Consumers Act.[1] Pursuant to the Act, the Commission promulgated the Contact Lens Rule (''Rule''), which went into effect on August 2, 2004.[2] The Rule promotes competition in retail sales of contact lenses by facilitating consumers' ability to comparison shop for contact lenses. When a prescriber completes a contact lens fitting, the Rule requires that the prescriber provide the patient with a copy of her prescription. The Rule also requires that the prescriber verify or provide such prescriptions to authorized third parties, such as contact lens sellers.

In addition, the Rule places certain requirements on sellers. It mandates that sellers dispense contact lenses only in accordance with a valid prescription that is either presented to the seller or verified by direct communication with the prescriber.[3] Sellers may not alter a prescription, but for private label contact lenses, may substitute identical contact lenses that the same company manufactures and sells under a different name.[4]

As part of its ongoing regulatory review program, the Commission published a Request for Comment in September 2015 seeking comment on: The economic impact of, and the continuing need for, the Rule; the benefits of the Rule to consumers; the burdens the Rule places on entities subject to its requirements; the impact the Rule has had on the flow of information to consumers; the degree of industry compliance with the Rule; the need for any modifications to increase its benefits or reduce its burdens or to account for changes in relevant technology; and any overlap or conflict with the Rule and other federal, state, or local laws or regulations.[5] The comment period closed on October 26, 2015, and the Commission received 660 comments.[6] Virtually all commenters agreed that there is a continuing need for the Rule and that it benefits consumers and competition. The majority of commenters recommended some modifications to the Rule in order to maximize the benefits to consumers and competition, decrease the burden on businesses, protect consumers' eye health, or improve overall compliance with the Rule's existing requirements.

After reviewing the comments, the Commission published a Notice of Proposed Rulemaking (''NPRM'') proposing to amend the Rule to require that prescribers obtain a signed acknowledgment after releasing a contact lens prescription to a patient, and maintain each such acknowledgment for a period of not less than three years.[7] The Commission also proposed to strike the words ''private label'' from Section 315.5(e) of the Rule to conform the language of the Rule to that of the Act. The Commission sought public comment on these proposed amendments as well as several other issues, including: The use of patient portals to provide prescriptions; the provision of additional copies of a prescription to a patient; the amount of time required for a prescriber to respond to a request for a copy of a prescription; and additional information on possible modifications to the Rule that could address issues raised about automated telephone calls. The Commission received over 4,100 comments in response.[8]

II. Issues for Discussion at the Workshop

As part of the Contact Lens Rule rulemaking, the FTC is hosting a public workshop to explore issues relating to competition in the contact lens marketplace, consumer access to contact lenses, prescription release and portability, and other issues raised in comments to the NPRM. The workshop will cover topics including: (1) Consumers' ability to comparison shop for contact lenses; (2) the use of electronic health records, patient portals, and other technology to improve prescription portability; (3) the interaction between the Contact Lens Rule and emerging telehealth business models; (4) the potential for new technology to improve the prescription verification process; and (5) modifications to the Contact Lens Rule to foster competition and maximize consumer benefits, including benefits to eye health.

A more detailed agenda will be published at a later date, in advance of the scheduled workshop.

III. Public Participation Information

A. Workshop Attendance

The workshop is free and open to the public, and will be held at the Constitution Center, 400 7th Street SW., Washington, DC. It will be webcast live on the FTC's Web site. For admittance to the Constitution Center, all attendees must show valid government-issued photo identification, such as a driver's license. Please arrive early enough to allow adequate time for this process.

This event may be photographed, videotaped, webcast, or otherwise recorded. By participating in this event, you are agreeing that your image—and anything you say or submit—may be posted indefinitely at *www.ftc.gov* or on one of the Commission's publicly available social media sites.

B. Requests To Participate as a Panelist

The workshop will be organized into panels, which will address the designated topics. Panelists will be selected by FTC staff. Other attendees will have an opportunity to comment and ask questions. The Commission will place a transcript of the proceeding on the public record. Requests to participate as a panelist must be received on or before January 5, 2018, as explained in Section IV below. Persons

[1] 15 U.S.C. 7601–7610 (Pub. L. 108–164).

[2] Contact Lens Rule, 16 CFR 315.

[3] 16 CFR 315.5(a).

[4] 16 CFR 315.5(e).

[5] Contact Lens Rule, Request for Comment, 80 FR 53272 (Sept. 3, 2015).

[6] The comments are posted at: *https://www.ftc.gov/policy/public-comments/initiative-621*.

[7] Contact Lens Rule, Notice of Proposed Rulemaking, Request for Comment, 81 FR 88526 (Dec. 7, 2016).

[8] The comments are posted at: *https://www.ftc.gov/policy/public-comments/2016/10/initiative-677*.

selected as panelists will be notified on or before January 19, 2018.

Disclosing funding sources promotes transparency, ensures objectivity, and maintains the public's trust. If chosen, prospective panelists will be required to disclose the source of any support they received in connection with participation at the workshop. This information will be included in the published panelist bios as part of the workshop record.

C. Electronic and Paper Comments

The submission of comments is not required for participation in the workshop. If a person wishes to submit paper or electronic comments related to the agenda topics or the issues discussed by the panelists at the workshop, such comments should be filed as prescribed in Section IV, and must be received on or before April 6, 2018.

IV. Filing Comments and Requests To Participate as a Panelist

You can file a comment, or request to participate as a panelist, online or on paper. For the Commission to consider your comment, we must receive it on or before April 6, 2018. For the Commission to consider your request to participate as panelist, we must receive it by January 5, 2018. Write ''Contact Lens Rule, 16 CFR part 315, Comment, Project No. R511995'' on your comment and ''Contact Lens Rule, 16 CFR part 315, Request to Participate, Project No. R511995'' on your request to participate. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/public comments.shtm.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/contactlensworkshop,* by following the instructions on the web based form. When this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

Because your comment will be placed on the publicly accessible FTC Web site at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Web site—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Web site, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Requests to participate as a panelist at the workshop should be submitted electronically to *contactlensworkshop2018@ftc.gov,* or, if mailed, should be submitted in the manner detailed below. Parties are asked to include in their requests a brief statement setting forth their expertise in or knowledge of the issues on which the workshop will focus as well as their contact information, including a telephone number and email address (if available), to enable the FTC to notify them if they are selected.

If you file your comment or request on paper, write ''Contact Lens Rule, 16 CFR part 315, Comment, Project No. R511995'' on your comment and on the envelope and ''Contact Lens Rule, 16 CFR part 315, Request to Participate, Project No. R511995,'' on your request and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex F), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex F). If possible, submit your paper comment or request to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 6, 2018. The Commission will consider all timely requests to participate as a panelist in the workshop that it receives by January 5, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

V. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. See 16 CFR 1.26(b)(5).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–26445 Filed 12–7–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2017–0277; FRL–9971–64-Region 5]

Air Plan Approval; Illinois; Redesignation of the Illinois Portion of the St. Louis-St. Charles-Farmington, Missouri-Illinois Area to Attainment of the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the St. Louis-St. Charles-Farmington, Missouri-Illinois (MO–IL) area, ''the St. Louis area,'' is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) based on 2014–2016 monitoring data. EPA is further proposing to redesignate the Illinois portion of the St. Louis area, ''the Metro-East area,'' to attainment for the 2008 ozone NAAQS because the Metro-East area meets the statutory requirements for redesignation under the Clean Air Act (CAA). (EPA will address the Missouri portion of the St. Louis area in a separate rulemaking action.) The St. Louis area includes Madison, Monroe and St. Clair Counties in Illinois (the Metro-East area), and Franklin, Jefferson, St. Charles, and St. Louis Counties and the City of St. Louis in Missouri. The Illinois Environmental Protection Agency (IEPA) submitted a request to redesignate the Metro-East area on May 8, 2017. EPA is also proposing to approve, as a revision to the Illinois State Implementation Plan (SIP), the State's plan for maintaining the 2008 ozone standard through 2030 in the St. Louis area. Finally, EPA finds adequate and is proposing to approve, as a SIP revision, the State's 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Metro-East area.

DATES: Comments must be received on or before January 8, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2017–0277 at *http://www.regulations.gov* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What are the actions EPA is proposing?
II. What is the background for these actions?
III. What are the criteria for redesignation?
IV. What is EPA's analysis of IEPA's redesignation request?
A. Has the St. Louis area attained the 2008 ozone NAAQS?
B. Has Illinois met all applicable requirements of section 110 and part D of the CAA for the Metro-East area, and does the Metro-East area have a fully approved SIP under section 110(k) of the CAA?
C. Are the air quality improvements in the St. Louis area due to permanent and enforceable emission reductions?
D. Does Illinois have a fully approvable ozone maintenance plan for the St. Louis area?
V. Has Illinois adopted approvable motor vehicle emission budgets?
A. What are motor vehicle emission budgets?
B. What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Metro-East area?
C. What is a safety margin and how did Illinois allocate it?
VI. Proposed Actions
VII. Statutory and Executive Order reviews

I. What are the actions EPA is proposing?

EPA is proposing to take several related actions. EPA is proposing to determine that the St. Louis nonattainment area is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2014–2016 and that the Metro-East area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Metro-East area from nonattainment to attainment for the 2008 ozone standard.

EPA is also proposing to approve, as a revision to the Illinois SIP, the State's maintenance plan for the area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the St. Louis area in attainment of the 2008 ozone NAAQS through 2030.

Finally, EPA finds adequate and is proposing to approve into the SIP the newly-established 2030 MVEBs for the Metro-East area. The adequacy comment period for the MVEBs began on August 21, 2017, with EPA's posting of the availability of Illinois' submittal on EPA's Adequacy Web site (at *https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity*). The adequacy comment period for these MVEBs ended on September 20, 2017. EPA did not receive any adverse comments on this submittal during the adequacy comment period. In a letter dated September 26, 2017, EPA informed IEPA that the 2030 MVEBs are adequate for use in transportation conformity analyses. Please see section V.B. of this rulemaking, ''What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Metro-East area?,'' for further explanation of this process.

II. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). See 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. *See* 40 CFR 50.15 and appendix P to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality-assured ozone monitoring data. The St. Louis area was designated as a marginal nonattainment area for the 2008 ozone NAAQS on May 21, 2012 (77 FR 30088) (effective July 20, 2012) based on 2008–2010 monitoring data.

In a final implementation rule for the 2008 ozone NAAQS (SIP Requirements Rule),[1] EPA established ozone standard attainment dates based on table 1 of section 181(a) of the CAA. The rule established an attainment date three years after the July 20, 2012, effective designation date for areas classified as marginal nonattainment for the 2008 ozone NAAQS. Therefore, the attainment date for the St. Louis area was July 20, 2015. On May 4, 2016 (81 FR 26697), based on EPA's evaluation and determination that the area met the attainment date extension criteria of CAA section 181(8)(5), EPA granted the St. Louis area a 1-year extension of the marginal area attainment date to July 20, 2016. On June 27, 2016 (81 FR 41444), in accordance with section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), EPA made a determination that the St. Louis area attained the standard by the July 20, 2016, attainment date for the 2008 ozone NAAQS. EPA's determination was based upon three years of complete, quality-assured and certified data for the 2013–2015 time period.

On May 8, 2017, Illinois submitted to EPA a request to redesignate the Illinois portion of the St. Louis area, also called the Metro-East area, to attainment for the 2008 ozone NAAQS, and to approve the maintenance place for the area, including the 2030 MVEBs, as a revision to the Illinois SIP.

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) The Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton. Director, Technical Support Division, June 18, 1990;
2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the ''Calcagni Memorandum'');
5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. ''Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. What is EPA's analysis of IEPA's redesignation request?

A. Has the St. Louis area attained the 2008 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2008 ozone NAAQS if it meets the 2008 ozone NAAQS, as determined in accordance with 40 CFR 50.15 and appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90 percent of the days within the ozone monitoring seasons,[2] on average, for the three-year period, with a minimum data completeness of 75 percent during the ozone monitoring season of any year during the three-year period. *See* section 2.3 of appendix P to 40 CFR part 50.

On June 27, 2016, in accordance with section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), EPA made a determination that the St. Louis area attained the standard by its July 20, 2016 attainment date for the 2008 ozone NAAQS. (81 FR 41444). This determination was based upon three

[1] This rule, titled ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements'' and published at 80 FR 12264 (March 6, 2015), addresses nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology (RACT), reasonably available control measures (RACM), new source review (NSR), emission inventories, and the timing requirements for SIP submissions and compliance with emission control measures in the SIP. This rule also addresses the revocation of the 1997 ozone NAAQS and the anti-backsliding requirements that apply when the 1997 ozone NAAQS is revoked.

[2] The ozone season is defined by state in 40 CFR 58 appendix D. For the 2013–2015 time period, the ozone season was April-October. Beginning in 2016, the ozone season is March-October. See 80 FR 65292, 65466–67 (October 26, 2015).

years of complete, quality-assured, and certified data for the 2013–2015 time period. In addition, EPA has reviewed the ozone monitoring data from monitoring sites in the St. Louis area for the 2014–2016 time period. These data, which are complete, quality-assured, and certified, demonstrate that the St. Louis area is attaining the 2008 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (ozone design values) for each monitoring site are summarized in Table 1.

TABLE 1—ANNUAL 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE ST. LOUIS AREA

State	County	Monitor	2013 4th high (ppm)	2014 4th high (ppm)	2015 4th high (ppm)	2016 4th high (ppm)	2013–2015 average (ppm)	2014–2016 average (ppm)
Illinois	Madison	17–119–0008	0.072	0.072	0.069	0.073	0.071	0.071
		17–119–1009	0.075	0.070	0.064	0.067	0.069	0.067
		17–119–3007	0.069	0.070	0.069	0.075	0.069	0.071
		17–119–9991	0.071	0.068	0.067	0.068	0.068	0.067
	St. Clair	17–163–0010	0.066	0.067	0.066	0.073	0.066	0.068
Missouri	Jefferson	29–099–0019	0.069	0.072	0.069	0.070	0.070	0.070
	St. Charles	29–183–1002	0.071	0.072	0.070	0.075	0.071	0.072
		29–183–1004	0.071	0.072	0.066	0.076	0.069	0.071
	St. Louis	29–189–0005	0.067	0.065	0.065	0.067	0.065	0.065
		29–189–0014	0.070	0.072	0.069	0.073	0.070	0.071
	St. Louis City	29–510–0085	0.066	0.066	0.063	0.068	0.065	0.065

The 3-year ozone design values for 2013–2015 and 2014–2016 are 0.071 ppm and 0.072 ppm, respectively,[3] which meet the criteria for attainment of the 2008 ozone NAAQS. Therefore, in today's action, EPA proposes to determine that the St. Louis area is attaining the 2008 ozone NAAQS based on complete, quality-assured and certified 2014–2016 ozone monitoring data.

EPA will not take final action to determine that the St. Louis area is attaining the NAAQS nor approve the redesignation of this area if the design value of a monitoring site in the area exceeds the NAAQS after proposal but prior to final approval of the redesignation. Preliminary 2017 data indicate that this area continues to attain the 2008 ozone NAAQS. As discussed in section IV.D.3. below, IEPA has committed to continue monitoring ozone in this area to verify maintenance of the ozone standard.

B. Has Illinois met all applicable requirements of section 110 and part D of the CAA for the Metro-East area, and does the Metro-East area have a fully approved SIP under section 110(k) of the CAA?

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the area has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). Illinois has met all applicable SIP requirements, for purposes of redesignation, under section 110 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2008 ozone NAAQS). Additionally, all applicable requirements of the Illinois SIP for the area have been fully approved under section 110(k) of the CAA. In making these determinations, EPA ascertained which CAA requirements are applicable to the Metro-East area and the Illinois SIP and, if applicable, whether the required Illinois SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

The September 4, 1992 Calcagni memorandum (see ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E)(v) of the CAA. Under this interpretation, a state and the area it wishes to redesignate must meet the relevant CAA requirements that are due prior to the state's submittal of a complete redesignation request for the area. *See also* the September 17, 1993, Michael Shapiro memorandum and 60 FR 12459, 12465–12466 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that become due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. *See* section 175A(c) of the CAA. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). *See also* 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

1. Illinois Has Met All Applicable Requirements of Section 110 and Part D of the CAA Applicable to the Metro-East Area for Purposes of Redesignation

a. Section 110 General Requirements for Implementation Plans

Section 110(a)(2) of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public

[3] The monitor ozone design value for the monitor with the highest 3-year averaged concentration.

and local agency participation in planning and emission control rule development.

Additionally, Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain air pollutants, *e.g.,* the NO_X SIP call.[4] However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, these requirements are not applicable requirements for purposes of redesignation. *See* 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426–25427 (May 13, 2003).

Similarly, other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will remain subject to these requirements after the area is redesignated to attainment of the 2008 ozone NAAQS. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See, e.g.,* Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). *See also* the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed the Illinois SIP and conclude that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation.[5]

b. Part D Requirements

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit plans pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The St. Louis area was classified as marginal under subpart 2 for the 2008 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. The area is also subject to the subpart 2 requirements contained in section 182(a) (marginal nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

i. Subpart 1 Section 172 Requirements

As provided in subpart 2, for marginal ozone nonattainment areas such as the St. Louis area, the specific requirements of section 182(a) apply in lieu of the attainment planning requirements that would otherwise apply under section 172(c), including the attainment demonstration and reasonably available control measures (RACM) under section 172(c)(1), reasonable further progress (RFP) under section 172(c)(2), and contingency measures under section 172(c)(9). 42 U.S.C. 7511a(a).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement is superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved the Illinois nonattainment NSR program as meeting the requirements of section 172(c)(4) and 172(c)(5) on December 17, 1992 (57 FR 59928), September 27, 1995 (60 FR 49780) and May 13, 2003 (68 FR 25504). Nonetheless, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Illinois has shown that the St. Louis area can demonstrate maintenance of the standard without part D NSR in effect; therefore, EPA concludes that the State need not have a fully approved part D NSR program prior to approval of the redesignation request. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). EPA delegated the authority to implement the Federal PSD program to IEPA pursuant to 40 CFR 52.21. This delegated PSD program will become effective in the Metro-East area upon redesignation to attainment.

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, the Illinois SIP meets the requirements of section 110(a)(2) for purposes of redesignation.

[4] On October 27, 1992 (63 FR 57356), EPA issued a NO_X SIP call requiring the District of Columbia and 22 states to reduce emissions of NO_X in order to reduce the transport of ozone and ozone precursors. In compliance with EPA's NO_X SIP Call, IEPA developed rules governing the control of NO_X emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers, major cement kilns, and internal combustion engines. EPA approved the Illinois rules as fulfilling Phase I of the NO_X SIP Call on June 28, 2001 (66 FR 34382) and November 21, 2001 (66 FR 56454), and as meeting Phase II of the NO_X SIP Call on June 26, 2009 (74 FR 30466).

[5] On October 16, 2014 (79 FR 62042), EPA approved elements of the SIP submitted by Illinois to meet the requirements of section 110 for the 2008 ozone standard. The requirements of section 110(a)(2), however, are statewide requirements that are not linked to the 8-hour ozone nonattainment status of the St. Louis area. Therefore, EPA concludes that these infrastructure requirements are not applicable requirements for purposes of review of the State's 8-hour ozone redesignation request.

ii. Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other Federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements [6] as not applicable for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida).

EPA approved Illinois's general conformity SIP on December 23, 1997 (62 FR 67000). Illinois does not have a Federally approved transportation conformity SIP. However, Illinois performs conformity analyses pursuant to EPA's Federal conformity rules. Illinois has submitted 2030 on-road MVEBs for the Metro-East area of 9.05 tons per day (tpd) VOC and 16.68 tpd NO_X. Illinois must use these MVEBs in any conformity determination that is effective on or after the effective date of the maintenance plan approval.

iii. Section 182(a) Requirements

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the ozone nonattainment area. IEPA submitted a 2011 base year emissions inventory for the Metro-East area on September 3, 2014. EPA approved this emissions inventory as a revision to the Illinois SIP on March 7, 2016 (81 FR 11671).

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Metro-East area is not subject to the section 182(a)(2) RACT ''fix up'' requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Illinois complied with this requirement for the Metro-East area under the prior 1-hour ozone NAAQS. *See* 59 FR 46562 (September 9, 1994).

Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented or was required to implement a vehicle inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2008 ozone standard and IEPA's redesignation request for this standard, the Metro-East area is not subject to the section 182(a)(2)(B) requirement because the Metro-East area was designated as nonattainment for the 2008 ozone standard after the enactment of the 1990 CAA amendments.

The source permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4) are included in Illinois' nonattainment NSR program, which EPA approved on December 17, 1992 (57 FR 59928), September 27, 1995 (60 FR 49780) and May 13, 2003 (68 FR 25504). As discussed above, Illinois has demonstrated that the Metro-East area can demonstrate maintenance of the standard without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. IEPA has been delegated the authority to implement the Federal PSD program, which will become effective in the Metro-East area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic emission inventories and a revision to the SIP to require the owners or operators of stationary sources to annually submit emission statements documenting actual VOC and NO_X emissions. As discussed below in section IV.D.4. of this proposed rule, Illinois will continue to update its emissions inventory at least once every three years consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. With regard to stationary source emission statements, EPA approved the Illinois emission statement rule on May 15, 2002 (67 FR 34614), which requires certain sources in ozone nonattainment areas to report annual VOC and NO_X emissions. On May 9, 2017, Illinois certified that this approved SIP regulation remains in place and meets the emissions statement requirement for areas designated as nonattainment for the 2008 ozone standard. EPA approved the Illinois emissions statement certification SIP on July 11, 2017 (82 FR 31913).

Therefore, the Metro-East area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Metro-East Area Has a Fully Approved SIP for Purposes of Redesignation Under Section 110(k) of the CAA

At various times, Illinois has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, EPA has fully approved the Illinois SIP for the Metro-East area under section 110(k) for all requirements applicable for purposes of redesignation under the 2008 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426), plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein).

C. Are the air quality improvements in the St. Louis area due to permanent and enforceable emission reductions?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. Illinois has demonstrated that the observed ozone air quality improvement in the St. Louis area is due to permanent and

[6] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of Motor Vehicle Emission Budgets (MVEBs), such as control strategy SIPs and maintenance plans, which are discussed in section V.A, below.

enforceable reductions in VOC and NO_X emissions resulting from state measures approved as part of the SIP and Federal measures.

In making this demonstration, IEPA has calculated the change in emissions between 2011 and 2014. IEPA attributes the reduction in emissions and corresponding improvement in air quality over this time period to a number of regulatory control measures that have been implemented in the St. Louis area and upwind areas in recent years. In addition, IEPA provided an analysis to demonstrate the improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, Illinois has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and Enforceable Emission Controls Implemented

a. Regional NO_X Controls

Clean Air Interstate Rule (CAIR)/Cross State Air Pollution Rule (CSAPR).

CAIR created regional cap-and-trade programs to reduce sulfur dioxide (SO_2) and NO_X emissions in 27 eastern states, including Illinois, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone NAAQS and the 1997 fine particulate matter ($PM_{2.5}$) NAAQS. *See* 70 FR 25162 (May 12, 2005). EPA approved Illinois's CAIR regulations into the Illinois SIP on October 10, 2007 (72 FR 58528). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR and the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from electric generating units (EGUs) in 28 states in the Eastern United States, including Illinois.

Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR's cap-and-trade programs would have superseded the CAIR cap and trade programs. Numerous parties filed petitions for review of CSAPR, and on December 30, 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Dec. 30, 2011), Order at 2.

On August 21, 2012, the D.C. Circuit issued its ruling, vacating and remanding CSAPR to EPA and once again ordering continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit subsequently denied EPA's petition for rehearing en banc. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302, 2013 WL 656247 (D.C. Cir. Jan. 24, 2013), at *1. EPA and other parties then petitioned the Supreme Court for a writ of certiorari, and the Supreme Court granted the petitions on June 24, 2013. *EPA* v. *EME Homer City Generation, L.P.,* 133 S. Ct. 2857 (2013).

On April 29, 2014, the Supreme Court vacated and reversed the D.C. Circuit Court's decision regarding CSAPR, and remanded that decision to the D.C. Circuit Court to resolve remaining issues in accordance with its ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). EPA moved to have the stay of CSAPR lifted in light of the Supreme Court decision. *EME Homer City Generation, L.P.* v. *EPA,* Case No. 11–1302, Document No. 1499505 (D.C. Cir. filed June 26, 2014). In its motion, EPA asked the D.C. Circuit to toll CSAPR's compliance deadlines by three years so that the Phase 1 emissions budgets applied in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit granted EPA's motion and lifted the stay of CSAPR, which was imposed on December 30, 2011. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Oct. 23, 2014), Order at 3. On December 3, 2014, EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit Court's order granting EPA's motion requesting lifting the stay and tolling the rule's deadlines. *See* 79 FR 71663 (December 3, 2014) (interim final rulemaking). Consistent with that rule, EPA began implementing CSAPR on January 1, 2015. EPA expects that the implementation of CSAPR will preserve the reductions achieved by CAIR and result in additional SO_2 and NO_X emission reductions throughout the maintenance period.

b. Federal Emission Control Measures

Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following.

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76 and 28 percent, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for on-highway heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. Nationally, EPA estimated that 2015 NO_X and VOC emissions would decrease by 1,260,000 tons and 54,000 tons, respectively. Nationally, EPA estimated that 2030 NO_X and VOC emissions will decrease by 2,570,000

tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the on-road emission modeling for the St. Louis area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Nonroad Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for nonroad diesel engines and sulfur reductions in nonroad diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards are phased in for 2008 through 2015 model years based on engine size. The SO_2 limits for nonroad diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NO_X emissions from these nonroad diesel engines by approximately 90 percent. Some of these emission reductions occurred by the attainment years, and additional emission reductions will occur throughout the maintenance period as older engines are replaced with newer, compliant model years.

Nonroad Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model year 2004 through 2012. When fully implemented, EPA estimates an overall 72 percent reduction in VOC emissions from these engines and an 80 percent reduction in NO_X emissions. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period as older vehicles are replaced with newer, compliant model years.

National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines. On March 3, 2010 (75 FR 9648), EPA issued a rule to reduce hazardous air pollutants from existing diesel powered stationary reciprocating internal combustion engines, also known as compression ignition engines. Amendments to this rule were finalized on January 14, 2013 (78 FR 6674). EPA estimated that when this rule was fully implemented in 2013, NO_X and VOC emissions from these engines would be reduced by approximately 9,600 and 36,000 tons per year, respectively.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards applied beginning in 2011, and are expected to result in a 15 to 25 percent reduction in NO_X emissions from these engines. Final Tier 3 emission standards applied beginning in 2016 and are expected to result in approximately an 80 percent reduction in NO_X from these engines. Some of these emission reductions occurred by the attainment years, and additional emission reductions will occur throughout the maintenance period as older engines are replaced with newer, compliant model years.

c. Control Measures Specific to the Metro-East Area

VOC RACT Rules. Illinois adopted several VOC RACT rules corresponding to the source categories covered in the Control Technique Guideline (CTG) documents issued by EPA in 2006, 2007, and 2008. Illinois adopted rules to control VOC emissions from the following source categories: Industrial cleaning solvents; flat wood paneling; flexible packaging printing lines; lithographic printing lines; letterpress printing lines; paper, film, and foil coatings; large appliance coatings; metal furniture coatings; miscellaneous metal and plastic parts coatings, automobile and light-duty truck assembly coatings; miscellaneous industrial adhesives; and, fiberglass boat manufacturing. EPA approved these rules into the Illinois SIP on March 23, 2012 (77 FR 16940).

Illinois Administrative Code (IAC) rule 219.187 controls VOC emissions from industrial solvent cleaning operations and required compliance by January 1, 2012. IEPA did not quantify the emission reductions expected from this category.

IAC rules 219.204–205, 219.207–208, 219.210–212, and 219.217–219.219 require the control of emissions from coating operations including flat wood paneling; large appliance coatings; metal furniture coatings; paper, film, and foil coatings; miscellaneous metal and plastic parts coatings; and automobile and light-duty truck assembly coatings. Compliance with the regulations pertaining to paper, film, and foil coatings; large appliance coatings; and metal furniture coatings was required by May 1, 2011.[7] IEPA estimated a 20% reduction in VOC emissions from implementation of the paper, film and foil coatings rule, but did not quantify emission reductions from the large appliance coating or metal furniture coating rules. Compliance with the regulations pertaining to flat wood paneling, miscellaneous metal and plastic parts coatings, and automobile and light-duty truck assembly coatings was required by May 1, 2012. IEPA estimated a 60% and 35% reduction in VOC emissions from flat wood paneling coatings and miscellaneous metal and plastic parts coatings, respectively, due to the implementation of these rules. IEPA did not quantify the reduction in VOC emissions due to the implementation of automobile and light-duty truck assembly coatings regulations.

IAC rules 219.401–404 control VOC emissions from flexible package printing lines; 219.405–411 control VOC emissions from lithographic printing lines; and 219.412–417 control VOC emissions from letterpress printing lines. These rules required compliance by August 1, 2010.[8] IEPA estimated a 25% reduction in VOC emissions from lithographic printing lines and a 30% reduction in VOC emissions from letterpress printing lines, but did not quantify the emission reductions expected from flexible packaging printing lines.

IAC rules 219.890–894 control VOC emissions from fiberglass boat manufacturing and required compliance by May 1, 2012. IEPA did not identify a reduction in VOC emissions from this source category. IAC rules 219.900–904 control VOC emissions from miscellaneous industrial adhesives and required compliance by May 1, 2012. IEPA estimated a 40% reduction in VOC emissions from this source category.

Consumer and Commercial Products and Architectural and Industrial Maintenance Coatings Rules. Illinois adopted regulations to control emissions from consumer and commercial products and architectural and industrial maintenance coatings on June 8, 2009, and amended them to include

[7] While VOC emission reductions from these source categories may not be evident when comparing the 2011 and 2014 emission inventories because of the regulatory compliance date, the reductions from these permanent and enforceable requirements occurred after the 2008–2010 time period EPA used to designate the St. Louis area as nonattainment for the 2008 ozone standard, thus contributing to the improvement in air quality.

[8] While VOC emission reductions from these source categories may not be evident when comparing the 2011 and 2014 emission inventories because the regulatory compliance date occurred in 2010, the reductions primarily occurred after the 2008–2010 time period EPA used to designate the St. Louis area as nonattainment for the 2008 ozone standard, thus contributing to the improvement in air quality.

additional product categories and emission limits on May 4, 2012. Consumer and commercial products are regulated under IAC 223.200–285, and architectural and industrial maintenance coatings are regulated under IAC 223.300–370. EPA approved these rules into the Illinois SIP on May 6, 2013 (78 FR 26258). Compliance with the original rules was required by July 1, 2009, and compliance for the additional product categories was required by July 1, 2012. Illinois estimated an 18% reduction in VOC emissions from consumer and commercial products and architectural and industrial maintenance coatings due to implementation of these rules.

Illinois Multi Pollutant Standards (MPS) and Combined Pollutant Standards (CPS) Rules. The Illinois MPS and CPS rules, IAC 225.233 and 225.291–296, are designed to control mercury emissions from coal-fired electric generating units, and also control NO_X emissions. Illinois adopted these regulations on June 26, 2009, with compliance required by January 1, 2012. These rules were approved by EPA on July 6, 2012 (77 FR 39943). IEPA estimated a 59 percent reduction in NO_X from these sources statewide from the implementation of these rules.

2. Emission Reductions

Illinois is using the 2011 base year emissions inventory, approved by EPA as meeting the requirements of CAA Section 182(a)(1), as the nonattainment inventory. *See* 81 FR 11671 (March 7, 2016). Although 2008–2010 ozone monitoring data was used to designate the St. Louis area as nonattainment, the area continued to monitor nonattainment in 2011; therefore, 2011 is an appropriate year to use as the nonattainment inventory.

For the attainment inventory, Illinois is using 2014, one of the years the St. Louis area monitored attainment of the 2008 ozone standard. IEPA compiled point source emission information from 2014 annual emission reports submitted by sources. IEPA calculated area source emissions primarily using an emission factor multiplied by an activity rate (*e.g.,* population, employment, amount of fuel burned, etc.).[9] IEPA calculated onroad mobile source emissions using EPA's MOVES2014a emissions model, with vehicle miles traveled (VMT) data provided by the Illinois Department of Transportation (IDOT). IEPA calculated non-road mobile source emissions using EPA's MOVES2014a emissions model, and calculated aircraft emissions using the Emissions and Dispersion Modeling System (EDMS) model. Emissions from locomotives were grown from the 2011 inventory. Commercial marine vessel emissions were provided by the Lake Michigan Air Directors Consortium (LADCO).

Using the inventories described above, along with 2011 and 2014 emissions inventories provided by the Missouri Department of Natural Resources (MDNR) for the Missouri portion of the St. Louis area, IEPA's submittal documents changes in VOC and NO_X emissions from 2011 to 2014. Subsequent to IEPA's submittal, Missouri submitted corrections to its 2014 and 2030 emissions inventories for the Missouri portion of the St. Louis area. These revisions are reflected in the emissions data for the St. Louis area shown in Tables 2 through 5.

TABLE 2—ST. LOUIS AREA VOC AND NO_X EMISSIONS FOR NONATTAINMENT YEAR 2011 IN TONS PER SUMMER DAY [TPSD]

	VOC			NO_X		
	Illinois	Missouri	Area total	Illinois	Missouri	Area total
Point	10.80	14.58	25.38	26.18	90.68	116.86
Area	18.12	72.77	90.89	1.23	5.60	6.83
On-road	11.44	38.00	49.44	34.14	124.21	158.35
Nonroad	8.49	39.03	47.52	17.17	47.55	64.72
Total	48.86	164.38	213.24	78.72	268.04	346.76

TABLE 3—ST. LOUIS AREA VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2014 [TPSD]

	VOC			NO_X		
	Illinois	Missouri	Area total	Illinois	Missouri	Area total
Point	9.38	13.86	23.24	23.29	81.70	104.99
Area	19.06	69.81	88.87	1.53	6.47	8.00
On-road	10.11	38.21	48.32	26.94	111.76	138.70
Nonroad	7.47	33.42	40.89	24.62	38.44	63.06
Total	46.02	155.30	201.32	76.38	238.37	314.75

TABLE 4—CHANGE IN VOC AND NO_X EMISSIONS BETWEEN 2011 AND 2014 FOR THE METRO-EAST AREA [TPSD]

	VOC			NO_X		
	2011	2014	Net change (2011–2014)	2011	2014	Net change (2011–2014)
Point	10.80	9.38	−1.42	26.18	23.29	−2.89
Area	18.12	19.06	0.94	1.23	1.53	0.30
On-road	11.44	10.11	−1.33	34.14	26.94	−7.20

[9] The 2014 inventory included additional categories not calculated in the 2011 inventory. These categories include oil and gas production, oil exploration, and agricultural field burning. While emissions from these categories may be significant state-wide, IEPA has indicated that these emissions are very minor for the Metro-East area.

TABLE 4—CHANGE IN VOC AND NO_X EMISSIONS BETWEEN 2011 AND 2014 FOR THE METRO-EAST AREA [TPSD]—Continued

	VOC			NO_X		
	2011	2014	Net change (2011–2014)	2011	2014	Net change (2011–2014)
Nonroad	8.49	7.47	−1.02	17.17	24.62	7.45
Total	48.86	46.02	−2.84	78.72	76.38	−2.34

TABLE 5—CHANGE IN VOC AND NO_X EMISSIONS BETWEEN 2011 AND 2014 FOR THE ENTIRE ST. LOUIS AREA [TPSD]

	VOC			NO_X		
	2011	2014	Net change (2011–2014)	2011	2014	Net change (2011–2014)
Point	25.38	23.24	−2.14	116.86	104.99	−11.87
Area	90.89	88.87	−2.02	6.83	8.00	1.17
On-road	49.44	48.32	−1.12	158.35	138.70	−19.65
Nonroad	47.52	40.89	−6.63	64.72	63.06	−1.66
Total	213.24	201.32	−11.92	346.76	314.75	−32.01

Table 5 shows that emissions of VOC and NO_X in the St. Louis area were reduced by 11.92 TPSD and 32.01 TPSD, respectively, between 2011 and 2014. As shown in Table 4, the Metro-East area alone reduced VOC and NO_X emissions by 2.84 TPSD and 2.34 TPSD, respectively, between 2011 and 2014.

As discussed above, Illinois identified numerous Federal rules and state rules approved into the Illinois SIP that resulted in the reduction of VOC and NO_X emissions from 2011 to 2014. Therefore, Illinois has shown that the air quality improvements in the St. Louis area are due to permanent and enforceable emission reductions.

3. Meteorology

To further support IEPA's demonstration that the improvement in air quality is due to permanent and enforceable emission reductions, LADCO performed a meteorology analysis. The analysis concluded that the improvement in air quality was not due to favorable meteorology. LADCO conducted a classification and regression tree (CART) analysis with 2000 through 2015 data from three Metro-East area ozone sites. The goal of the analysis was to determine the meteorological and air quality conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions.

LADCO developed regression trees for the three monitors to classify each summer day by its ozone concentration and associated meteorological conditions. By grouping days with similar meteorology, the influence of meteorological variability on the underlying trend in ozone concentrations is partially removed, and the remaining trend is presumed to be due to trends in precursor emissions or other non-meteorological influences. The CART analysis showed the resulting trends in ozone concentrations declining over the period examined, supporting the conclusion that the improvement in air quality was not due to unusually favorable meteorology.

D. Does Illinois have a fully approvable ozone maintenance plan for the Metro-East area?

As one of the criteria for redesignation to attainment, section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10 year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.

In conjunction with its request to redesignate the Metro-East area to attainment for the 2008 ozone standard, IEPA submitted, as a SIP revision, a plan to provide for maintenance of the 2008 ozone standard through 2030, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that the Illinois ozone maintenance plan includes the necessary components and approve the maintenance plan as a revision to the Illinois SIP.

1. Attainment Inventory

EPA is proposing to determine that the St. Louis area has attained the 2008 ozone NAAQS based on monitoring data for the period of 2014–2016. IEPA selected 2014 as the year to establish attainment emission levels for VOC and NO_X. IEPA's 2014 attainment emissions inventory identifies the levels of emissions in the St. Louis area that are sufficient to attain the 2008 ozone NAAQS. The basis of the attainment year emissions was discussed above in section IV.C.2. of this proposed rule. Additionally, the attainment level emissions, by source category, are summarized in Table 3 above. The

attainment emissions inventory is consistent with the Calcagni memo.

2. Has the state documented maintenance of the ozone standard in the St. Louis area?

Illinois has demonstrated maintenance of the 2008 ozone standard through 2030 by ensuring that current and future emissions of VOC and NO_X for the St. Louis area remain at or below attainment year emission levels through the use of emission inventories. A maintenance demonstration need not be based on modeling. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

Illinois is using emissions inventories for the years 2020 and 2030 to demonstrate maintenance. 2030 is more than 10 years after the expected effective date of the redesignation to attainment, and 2020 was selected to demonstrate that emissions are not expected to increase in the interim between the attainment year and the final maintenance year.

To develop the 2020 and 2030 inventories, the state collected data from the EPA's Air Emissions Modeling platform (2011v6.2) inventories for years 2011, 2017 and 2025. For year 2020, emissions for point and area source sectors, as well as nonroad mobile categories not calculated by the MOVES model, were derived by interpolating between 2017 and 2025. For year 2030, emissions for point and area source sectors, as well as nonroad mobile categories not calculated by the MOVES model, were derived using the TREND function in Excel. Finally, onroad and nonroad mobile source emissions were calculated for 2020 and 2030 using the MOVES2014a model. Total VMT for 2020 and 2030 were assumed to increase at a rate of 1.012 percent per year from 2014. Emissions data are shown in Tables 6 through 9 below.

TABLE 6—ST. LOUIS AREA VOC AND NO_X EMISSIONS FOR INTERIM MAINTENANCE YEAR 2020 [TPSD]

	VOC			NO_X		
	Illinois	Missouri	Area total	Illinois	Missouri	Area total
Point	9.03	14.32	23.35	16.81	88.60	105.41
Area	18.40	68.86	87.26	1.51	16.87	18.38
Onroad	6.38	26.64	33.02	13.22	46.42	59.64
Nonroad	5.65	28.71	34.36	18.45	28.27	46.72
Total	39.47	138.53	178.00	49.99	180.16	230.15

TABLE 7—ST. LOUIS AREA VOC AND NO_X EMISSIONS FOR MAINTENANCE YEAR 2030 [TPSD]

	VOC			NO_X		
	Illinois	Missouri	Area total	Illinois	Missouri	Area total
Point	8.53	14.31	22.84	16.93	93.08	110.01
Area	18.05	68.80	86.85	1.51	13.03	14.54
Onroad	3.75	18.42	22.17	6.70	25.57	32.27
Nonroad	5.09	30.01	35.10	11.31	29.90	41.21
Total	35.43	131.54	166.97	36.46	161.58	198.04

TABLE 8—CHANGE IN VOC AND NO_X EMISSIONS BETWEEN 2014 AND 2030 FOR THE METRO-EAST AREA [TPSD]

	VOC				NO_X			
	2014	2020	2030	Net change (2014–2030)	2014	2020	2030	Net change (2014–2030)
Point	9.38	9.03	8.53	−0.85	23.29	16.81	16.93	−6.36
Area	19.06	18.40	18.05	−1.01	1.53	1.51	1.51	−0.02
Onroad	10.11	6.38	3.75	−6.36	26.94	13.22	6.70	−20.24
Nonroad	7.47	5.65	5.09	−2.38	24.62	18.45	11.31	−13.31
Total	46.02	39.47	35.43	−10.59	76.38	49.99	36.46	−39.92

TABLE 9—CHANGE IN VOC AND NO_X EMISSIONS BETWEEN 2014 AND 2030 FOR THE ENTIRE ST. LOUIS AREA [TPSD]

	VOC				NO_X			
	2014	2020	2030	Net change (2014–2030)	2014	2020	2030	Net change (2014–2030)
Point	23.24	23.35	22.84	−0.40	104.99	105.41	110.01	5.02
Area	88.87	87.26	86.85	−2.02	8.00	18.38	14.54	6.54
Onroad	48.32	33.02	22.17	−26.15	138.70	59.64	32.27	−106.43
Nonroad	40.89	34.36	35.10	−5.79	63.06	46.72	41.21	−21.85
Total	201.32	178.00	166.97	−34.35	314.75	230.15	198.04	−116.71

In summary, the maintenance demonstration for the St. Louis area shows maintenance of the 2008 ozone standard by providing emissions information to support the demonstration that future emissions of VOC and NO_X will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls. Table 9 shows VOC and NO_X emissions in the St. Louis area are projected to decrease by 34.35 TPSD and 116.71 TPSD, respectively, between 2014 and 2030. As shown in Table 8, VOC and NO_X emissions in the Metro-East portion of the area alone are projected to decrease by 10.59 TPSD and 39.92 TPSD, respectively, between 2014 and 2030.

3. Continued Air Quality Monitoring

IEPA has committed to continue to monitor ozone levels according to an EPA approved monitoring plan to ensure maintenance of the 2008 ozone standard. Illinois remains obligated to meet monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into AQS in accordance with Federal guidelines.

4. Verification of Continued Attainment

The State of Illinois has the legal authority to enforce and implement the requirements of the maintenance plan for the Metro-East area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. IEPA has committed to continue monitoring ozone levels according to an EPA approved monitoring plan. Should changes in the location of an ozone monitor become necessary, IEPA will work with EPA to ensure the adequacy of the monitoring network. IEPA has further committed to continue to quality assure the monitoring data to meet the requirements of 40 CFR part 58 and enter all data into AQS in accordance with Federal guidelines.

In addition, to track future levels of emissions, IEPA will continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements (AERR) on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Illinois was compiled for 2014. Point source facilities covered by the Illinois emission statement rule will continue to submit VOC and NO_X emissions on an annual basis as required by 35 Ill. Adm. Code Part 254.

5. What is the contingency plan for the St. Louis area?

Section 175A of the CAA requires that the state must adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and, a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Illinois has adopted a contingency plan for the St. Louis area to address possible future ozone air quality problems. The contingency plan adopted by Illinois has two levels of response, Level I and Level II.

A Level I response is triggered in the event that: (1) The fourth highest 8-hour ozone concentration at any monitoring site in the St. Louis area exceeds 0.075 parts ppm in any year, or (2) VOC or NO_X emissions in the Metro-East area increase more than 5% above the levels contained in the 2014 attainment year emissions inventory. IEPA will work with the Missouri Department of Natural Resources (MDNR) to evaluate the causes of high ozone levels or emissions trends and to determine appropriate control measures needed to ensure continued attainment of the ozone standard. Control measures selected under a Level I response must be adopted within 18 months after a determination is made and implemented within 24 months of adoption.

A Level II response is triggered in the event that a violation of the 2008 ozone standard is monitored within the St. Louis area. To select appropriate corrective measures, IEPA will work with the MDNR to conduct a comprehensive study to determine the causes of the violation and the control measures necessary to mitigate the problem. Implementation of necessary controls in response to a Level II trigger must take place as expeditiously as possible, but in no event later than 18 months after IEPA makes a determination, based on quality-assured ambient monitoring data, that a violation of the NAAQS has occurred.

IEPA included the following list of potential contingency measures that could be implemented if a Level I or Level II response is triggered:

a. Continued phasing in of Mercury and Air Toxics Standards, Reciprocating Internal Combustion Engines NESHAP and Industrial/Commercial/Institutional Boilers and Process Heaters NESHAP;

b. CSAPR update after promulgation by EPA;

c. NESHAP risk and technology review including: Mineral Wool Production 40 CFR 63 subpart DDD, Ferroalloys Production 40 CFR 63 subpart XXX, Petroleum Refineries 40 CFR 63 subparts CC and UUU;

d. New Source Performance Standards—Petroleum Refineries 40 CFR subpart Ja;

e. Broader geographic applicability of existing measures;

f. Implementation of oil and gas sector emission guidelines, once finalized by EPA;

g. Conversion of coal-fired EGUs to natural gas and from baseload units to intermittent units;

h. Implementation of ozone transport commission model rules for above ground storage tanks;

i. Implementation of the Clean Power Plan, once stay is lifted;

j. Implementation of the 2017 light-duty vehicle greenhouse gas and corporate average fuel economy standards;

k. Mobile source air toxics rule;

l. Tier 3 Vehicle emissions and fuel standards;

m. Heavy-duty vehicle greenhouse gas rules;

n. Regulations on the sale of aftermarket catalytic converters;

o. Adopting standards and limitations for organic material emissions for area sources (consumer and commercial products and architectural and industrial maintenance coatings rule), current California commercial and consumer products—aerosol adhesive coatings, dual purpose air freshener/disinfectant, etc.

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan.

EPA has concluded that Illinois' maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, IEPA has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Metro-East area to cover an additional ten years beyond the initial 10-year maintenance period. Thus, the maintenance plan SIP revision submitted by IEPA meets the requirements of section 175A of the CAA and EPA proposes to approve it as a revision to the Illinois SIP.

V. Has Illinois adopted approvable motor vehicle emission budgets?

A. What are motor vehicle emission budgets?

Under section 176(c) of the CAA, new transportation plans, programs, or projects that receive Federal funding or support, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality problems, or delay timely attainment of the NAAQS or interim air quality milestones. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS, but that have been redesignated to attainment with an approved maintenance plan for the NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. *See* the SIP requirements for the 2008 ozone standard in EPA's March 6, 2015 implementation rule (80 FR 12264). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_X for ozone) to address pollution from onroad transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. *See* 40 CFR 93.101.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB, if needed, subsequent to initially establishing a MVEB in the SIP.

B. What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Metro-East area?

When reviewing submitted control strategy SIPs or maintenance plans containing MVEBs, EPA must affirmatively find that the MVEBs contained therein are adequate for use in determining transportation conformity. Once EPA affirmatively finds that the submitted MVEBs are adequate for transportation purposes, the MVEBs must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public notification of a SIP submission; provision for a public comment period; and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change,'' on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule titled, ''Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes,'' 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, IEPA's maintenance plan includes VOC and NO_X MVEBs for the Metro-East area for 2030, the last year of the maintenance period. EPA reviewed the VOC and NO_X MVEBs in accordance with the adequacy process. IEPA's May 8, 2017, maintenance plan SIP submission, including the VOC and NO_X MVEBs for the Metro-East area, was open for public comment on EPA's adequacy Web site on August 21, 2017, at: *https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity.*

The EPA public comment period on adequacy of the 2030 MVEBs for the Metro-East area closed on September 20, 2017. No comments on the submittal were received during the adequacy comment period. The submitted maintenance plan, which included the MVEBs, was endorsed by the Governor (or his or her designee) and was subject to a state public hearing. The MVEBs were developed as part of an interagency consultation process which includes Federal, state, and local agencies. Additionally, the MVEBs were clearly identified and precisely quantified. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2008 ozone standard.

TABLE 10—MVEBS FOR THE METRO-EAST AREA [TPSD]

	Attainment year 2014 on-road emissions	2030 estimated on-road emissions	2030 mobile safety margin allocation	2030 MVEBs
VOC	10.11	3.75	5.30	9.05

TABLE 10—MVEBS FOR THE METRO-EAST AREA [TPSD]—Continued

	Attainment year 2014 on-road emissions	2030 estimated on-road emissions	2030 mobile safety margin allocation	2030 MVEBs
NO_X	26.94	6.70	9.98	16.68

As shown in Table 10, the 2030 MVEBs exceed the estimated 2030 on-road sector emissions. In an effort to accommodate future variations in travel demand models and vehicle miles traveled forecast, IEPA allocated a portion of the safety margin (described further below) to the mobile sector. Illinois has demonstrated that the St. Louis area can maintain the 2008 ozone NAAQS with mobile source emissions in the Metro-East portion of the area of 9.05 TPSD of VOC and 16.68 TPSD of NO_X in 2030. This is because emissions will remain under attainment year emission levels despite partial allocation of the safety margin. Based on this analysis, the St. Louis area should maintain attainment of the 2008 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs.

Therefore, EPA has found that the MVEBs are adequate and is proposing to approve the MVEBs for use in determining transportation conformity in the Metro-East portion of the St. Louis area.

C. What is a safety margin and how did Illinois allocate it?

EPA's transportation conformity regulations allow for the use of a safety margin in the development of MVEBs for maintenance plans. A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Table 8, the emissions in the Metro-East area are projected to have safety margins of 10.59 TPSD for VOC and 39.92 TPSD for NO_X in 2030 (the difference between the attainment year, 2014, emissions and the projected 2030 emissions for all sources in the Metro-East area). Even if emissions reached the full level of the safety margin, the counties would still demonstrate maintenance because emission levels would equal those in the attainment year.

As shown in Table 10 above, Illinois is allocating a portion of that safety margin to the mobile source sector. Specifically, in 2030, Illinois is allocating 5.30 TPSD and 9.98 TPSD of the VOC and NO_X safety margins, respectively. IEPA is not requesting allocation of the entire available safety margins reflected in the demonstration of maintenance. Therefore, even though the State is requesting MVEBs that exceed the projected onroad mobile source emissions for 2030 contained in the demonstration of maintenance, the increase in onroad mobile source emissions that can be considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources. Thus, IEPA continues to demonstrate maintenance of the 2008 ozone standard despite IEPA's allocation of part of the safety margin to the mobile source sector.

VI. Proposed Actions

EPA is proposing to determine that the St. Louis nonattainment area is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2014–2016 and that the Metro-East portion of this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve IEPA's request to change the legal designation of the Metro-East portion of the St. Louis area from nonattainment to attainment for the 2008 ozone standard. EPA is also proposing to approve, as a revision to the Illinois SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the St. Louis area in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly-established 2030 MVEBs for the Metro-East area.

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: November 17, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–26419 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1304

RIN 0970–AC63

CLASS Condition of the Head Start Designation Renewal System

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Request for comments.

SUMMARY: OHS invites public comment on several specific changes being considered for the CLASS condition of the Designation Renewal System (DRS) as outlined in the Head Start Program Performance Standards. We are considering changes to the CLASS condition with a goal of improving implementation and transparency of the DRS. Changes being considered include removal of the ''lowest 10 percent'' provision of the CLASS condition, an increase of the minimum thresholds for the Emotional Support and Classroom Organization domains to a score of 5, removal of the minimum threshold for the Instructional Support domain, and establishment of authority for the Secretary to set an absolute minimum threshold for the Instructional Support domain prior to the start of each fiscal year to be applied for DRS CLASS reviews in the same fiscal year. OHS requests feedback on these possible changes as well as alternative changes to the CLASS condition, particularly ways the Instructional Support threshold could be set and/or adjusted that would incentivize program improvement while acknowledging the current state of the field. OHS also invites feedback on other conditions of the DRS.

DATES: Submit comments by February 6, 2018.

ADDRESSES: You may send comments, identified by [docket number and/or RIN number], by either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow instructions for sending comments. We prefer to receive comments via this method.
- *Mail:* Office of Head Start, Attention: Colleen Rathgeb, Director, Division of Planning, Oversight and Policy, 330 C Street SW., Washington, DC 20024.

Instructions: All submissions received must include our agency name and the docket number or Regulatory Information Number (RIN) for this notice. All comments will be posted without change to *https://www.regulations.gov,* including any personal information provided. We accept anonymous comments. If you wish to remain anonymous, enter ''N/A'' in the required fields.

FOR FURTHER INFORMATION CONTACT: Colleen Rathgeb, Director, Division of Planning, Oversight and Policy, Office of Head Start, [*colleen.rathgeb@acf.hhs.gov*], (202) 358–3263 (not a toll-free call). Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. Eastern Standard Time.

SUPPLEMENTARY INFORMATION:

Background Information

The Head Start program provides grants to local public and private non-profit and for-profit agencies to provide comprehensive education and child development services to economically disadvantaged children, from birth to age five, and families and to help young children develop the skills they need to be successful in school. Our agencies provide these families comprehensive services to support children's cognitive, social, and emotional development. In addition to education services, agencies provide children and their families with health, nutrition, social, and other services.

To drive program quality improvement, the *Improving Head Start for School Readiness Act of 2007,* Pub. L. 110–134, (the Act) required HHS to develop a system to facilitate designation of Head Start grantees delivering a high-quality and comprehensive program for a period of five years and required grantees not delivering high-quality and comprehensive services to enter open competition for continued funding. Prior to the Act, when HHS designated a Head Start agency, it remained a Head Start grantee indefinitely unless the grantee either relinquished funding or HHS terminated its grant.

To meet the requirement in the Act, HHS established the DRS, which is described in 45 CFR 1304.10 through 16. The DRS includes seven conditions. If an agency meets any of the seven conditions, it must compete with other providers in the community for renewed grant funding. The seven conditions are: (1) A deficiency under section 641A(c)(1)(A), (C), or (D) of the Act; (2) failure to establish, utilize, and analyze children's progress on agency-established School Readiness goals; (3) scores below minimum thresholds in the Classroom Assessment Scoring System: Pre-K (CLASS) domains or in the lowest 10 percent in any of the three domains of the agencies monitored in a given year unless the average score is equal to or above the standard of excellence; (4) revocation of a license to operate a center or program; (5) suspension from the program; (6) debarment from receiving federal or state funds or disqualified from the Child and Adult Care Food Program; or (7) an audit finding of at risk for failing to continue as ''a going concern.'' The Act also requires HHS to periodically evaluate whether or not the DRS criteria are applied in a manner that is transparent, reliable, and valid.

Section 641(c)(1)(D) of the Act requires the DRS to be based in part on classroom quality as measured under section 641A(c)(2)(F), which refers to a valid and reliable research-based observational instrument, implemented by qualified individuals with demonstrated reliability, that assesses classroom quality, including assessing multiple dimensions of teacher-child interactions that are linked to positive child development and later achievement. The third condition of the DRS is based on use of the CLASS, which is an observational measurement tool for assessing the quality of teacher-

child interactions and classroom processes in three broad domains that support children's learning and development: Emotional Support, Classroom Organization, and Instructional Support.

Changes to CLASS Condition Under Consideration

Since HHS established the DRS, all grantees that had indefinite project periods have completed the DRS process. Based on CLASS data, observations collected throughout these cohorts, results of a recent evaluation, and feedback from the community, we are considering changes to the CLASS condition of the DRS in order to better improve implementation of the system. There are concerns about some aspects of the CLASS condition of the DRS that have been raised by Head Start grantees as well as in the recent evaluation. First, the requirement for grantees with the lowest 10 percent of scores on any of the three CLASS domains to compete may not be optimally targeting the grantees for competition with the lowest measures of classroom quality. For example, grantees have been required to compete due to an Emotional Support score of 5.69, which is very close to the Standard of Excellence (a 6—which developers of the CLASS deem the highest quality), while grantees very close to the minimum threshold in Instructional Support (*e.g.,* score of 2.3) do not have to compete. We are considering an approach to establish higher specific thresholds that demonstrate an established acceptable level of quality in Emotional Support and Classroom Organization and an adjustable threshold for the Instructional Support domain where there is the greatest potential and need for program improvement.

Second, we understand that the delay between completion of the CLASS review and grantees knowing their DRS designation status, due to the need to collect and analyze a full monitoring year's CLASS scores to determine the lowest 10 percent, creates uncertainty, stress, and concern among grantees, grantee staff, and families. Because classroom quality in Head Start programs is improving, as demonstrated by recent analysis of data from the 2006, 2009, and 2014 cohorts of the Head Start Family and Child Experiences Survey (FACES),[1] we are exploring options for the CLASS condition that would better balance an ability to drive quality improvement over time with an approach that would be more transparent, timely, and less burdensome for programs.

To inform our development of a notice of proposed rulemaking to change the DRS CLASS condition to meet the objectives described above, we are requesting public comments on several specific changes being considered. The changes under consideration are as follows:

1. Remove the ''lowest 10 percent'' provision of the CLASS condition described in 45 CFR 1304.11(c)(2).
2. Increase the minimum threshold described in 45 CFR 1304.11(c)(1)(i) for the Emotional Support domain from 4 to 5.
3. Increase the minimum threshold described in 45 CFR 1304.11(c)(1)(ii) for Classroom Organization from 3 to 5.
4. Remove the minimum threshold for the Instructional Support domain described in 45 CFR 1304.11(c)(1)(iii) and instead provide authority for the Secretary to set an absolute minimum threshold for the Instructional Support domain, considering the most recent CLASS data, by August 1 of each year to be used for CLASS Reviews conducted in the following fiscal year (October 1 through September 30).

Together, these changes would allow grantees to know by August 1, before CLASS Reviews are conducted for the coming fiscal year, the exact threshold of classroom quality in each of the three domains that will be used to determine which grantees will be subject to an open competition for funding and which grantees will receive renewed funding non-competitively. Grantees would no longer have to wait until several months following the conclusion of the CLASS reviews for the fiscal year (September 30) to learn the lowest 10 percent cutoff in each of the 3 domains. Setting minimum thresholds of 5 in the Emotional Support and Classroom Organization domains would set a clear and consistent expectation of quality for all Head Start programs. Allowing the Secretary to set the minimum threshold in the Instructional Support domain prior to the start of each program year and monitoring year would allow for consideration of the most recent CLASS data for Head Start grantees while still supporting continuous quality improvement across the program as a whole.

What We Are Looking for in Public Comments

We invite comments about the specific changes being considered for the DRS CLASS condition. We also invite comments about any unintended consequences of removing the lowest 10 percent condition and whether an absolute threshold could influence scores. We are particularly interested in recommendations related to how the Secretary would consider establishing the minimum threshold for Instructional Support each year. For example, the regulation could establish an initial Instructional Support threshold (*e.g.,* 2.3 or 2.5) that could be raised in increments of 0.1 based on certain criteria related to the available CLASS data from all prior years of Head Start monitoring, or the threshold could be set one standard deviation below the mean Instructional Support score over the 3 or 5 previous fiscal years. We are interested in other ideas of ways the Instructional Support threshold could be set and/or adjusted that would incentivize program improvement while acknowledging the current state of the field. We are also interested in feedback on another potential change to establish or maintain a minimum absolute threshold (such as a 2) that would require competition and a higher threshold (such as 2.5 or 3) and require grantees to focus on quality improvement before they were reevaluated to see if their Instructional Support score has improved. Only grantees without improvement or still below the threshold would then have to compete. We are interested in feedback on each of these possible approaches as well as others suggested by the field.

If commenters do not support the changes being considered, comments offering alternative proposals to the CLASS condition or to other conditions of the DRS would be particularly helpful.

Dated: December 5, 2017.

Ann Linehan,

Acting Director, Office of Head Start.

[FR Doc. 2017–26483 Filed 12–7–17; 8:45 am]

BILLING CODE 4184–01–P

[1] Aikens, N., Bush, C., Gleason, P., Malone, L., & Tarullo, L. (2016). Tracking Quality in Head Start Classrooms: FACES 2006 to FACES 2014. Washington, DC: U.S. Department of Health and Human Services.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170817779–7779–01]

RIN 0648–XF636

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2018 and 2019 Harvest Specifications for Groundfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes 2018 and 2019 harvest specifications, apportionments, and prohibited species catch allowances for the groundfish fisheries of the Bering Sea and Aleutian Islands (BSAI) management area. This action is necessary to establish harvest limits for groundfish during the 2018 and 2019 fishing years, and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Comments must be received by January 8, 2018.

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2017–0108, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0108,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record, and NMFS will post the comments for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Final EIS), Record of Decision (ROD), Supplementary Information Report (SIR) to the EIS, and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov.* The final 2016 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2016, is available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK 99501–2252, phone 907–271–2809, or from the Council's Web site at *http://www.npfmc.org/.* The draft 2017 SAFE report for the BSAI is available from the same source.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) and govern the groundfish fisheries in the BSAI. The Council prepared the FMP, and NMFS approved it, under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species category. The sum of TACs for all groundfish species in the BSAI must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)(A)). Section 679.20(c)(1) further requires NMFS to publish proposed harvest specifications in the **Federal Register** and solicit public comments on proposed annual TACs and apportionments thereof, prohibited species catch (PSC) allowances, prohibited species quota (PSQ) reserves established by § 679.21, seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC, American Fisheries Act allocations, Amendment 80 allocations, Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii), and acceptable biological catch (ABC) surpluses and reserves for CDQ groups and Amendment 80 cooperatives for flathead sole, rock sole, and yellowfin sole. The proposed harvest specifications set forth in Tables 1 through 16 of this action satisfy these requirements.

Under § 679.20(c)(3), NMFS will publish the final harvest specifications for 2018 and 2019 after (1) considering comments received within the comment period (see **DATES**), (2) consulting with the Council at its December 2017 meeting, (3) considering information presented in the SIR to the EIS that assesses the need to prepare a Supplemental EIS (see **ADDRESSES**), and (4) considering information presented in the final 2017 SAFE reports prepared for the 2018 and 2019 groundfish fisheries.

Other Actions Affecting the 2018 and 2019 Harvest Specifications

Amendment 117: Reclassify Squid as an Ecosystem Species

In June 2017, the Council recommended for Secretarial review Amendment 117 to the FMP. Amendment 117 would reclassify squid in the FMP as an ''Ecosystem Component'' species, which is a category of non-target species that are not in need of conservation and management. Currently, NMFS annually sets an Overfishing Level (OFL), ABC, and TAC for squid in the BSAI groundfish harvest specifications. Under Amendment 117, OFL, ABC, and TAC specifications would no longer be required. Proposed regulations to implement Amendment 117 would prohibit directed fishing for squid, require recordkeeping and reporting to monitor and report catch of squid species annually, and establish a squid maximum retainable amount when directed fishing for groundfish species at 20 percent to discourage retention, while allowing flexibility to prosecute groundfish fisheries. Further details will be available on publication of the proposed rule for Amendment 117. If Amendment 117 and its implementing regulations are approved by the Secretary of Commerce, Amendment 117 and its implementing regulations are anticipated to be effective by 2019. Until Amendment 117 is effective, NMFS will continue to publish OFLs, ABCs, and TACs for squid in the BSAI groundfish harvest specifications.

Alaska Guideline Harvest Levels

The Alaska Board of Fisheries (BOF), a regulatory body for the Alaska Department of Fish and Game, established a guideline harvest level (GHL) in State of Alaska (State) waters between 164 and 167 degrees west longitude in the Bering Sea subarea (BS) equal to 6.4 percent of the Pacific cod ABC for the BS. The Council recommends that the proposed 2018 and 2019 Pacific cod TACs accommodate the State's GHLs for Pacific cod in State waters in the BS. The Council and its BSAI Groundfish Plan Team (Plan Team), Scientific and Statistical Committee (SSC), and Advisory Panel (AP) recommended that the sum of all State and Federal water Pacific cod removals from the BS not exceed the proposed ABC recommendations of 208,265 mt.

Accordingly, the Council recommends the proposed 2018 and 2019 Pacific cod TACs in the BS to account for State GHLs.

For 2018 and 2019, the BOF established a GHL in State waters in the Aleutian Islands subarea (AI) equal to 27 percent of the Pacific cod ABC for the AI. The Council recommends that the proposed 2018 and 2019 Pacific cod TACs accommodate the State's GHLs for Pacific cod in State waters in the AI. The Council and its Plan Team, SSC, and AP recommended that the sum of all State and Federal water Pacific cod removals from the AI not exceed the proposed ABC recommendations of 21,500 mt. Accordingly, the Council recommends that the proposed 2018 and 2019 Pacific cod TACs in the AI account for State GHLs.

Proposed ABC and TAC Harvest Specifications

At the October 2017 Council meeting, the SSC, AP, and Council reviewed the most recent biological and harvest information on the condition of the BSAI groundfish stocks. The Plan Team compiled and presented this information, which was initially compiled by the Plan Team and presented in the final 2016 SAFE report for the BSAI groundfish fisheries, dated November 2016 (see **ADDRESSES**).

The Council recommends and NMFS proposes a reduction in the Pacific cod OFL, ABC, and TAC levels as compared to those levels implemented for Pacific cod in the 2017 and 2018 final BSAI groundfish harvest specifications published in February 2017 (82 FR 11826, February 27, 2017). The only changes to the proposed 2018 and 2019 harvest specifications from the final 2018 harvest specifications are associated with a decrease in Pacific cod OFL, ABC, and TAC in the BS and increases in pollock TAC amounts in the BS, Atka mackerel, Pacific ocean perch, and rock sole TAC amounts in the BSAI. The net increases of TAC equal the decrease of Pacific cod TAC, and leave the sum of the TACs equal to 2.0 million mt. The Council concurred with its SSC's recommendation to reduce the Pacific cod OFL and ABC, as well as its AP's recommendation for a corresponding reduction in the Pacific cod TAC. The reductions to the Pacific cod OFL, ABC, and TAC are the result of preliminary 2017 BSAI bottom trawl survey data, as well as other data, that recently became available to stock assessment scientists.

Based on the results of the 2017 BSAI bottom trawl survey estimates and preliminary modeling for the Pacific cod stock assessment, the Pacific cod biomass and abundance has decreased significantly since the 2016 BSAI bottom trawl survey. This decrease is corroborated by additional data sets that appear to support the trawl survey results associated with a decrease in the Pacific cod biomass. This information led to the recommended reduction in the proposed 2018 and 2019 Pacific cod OFL and ABC. The SSC opted to recommend a proposed 2018 OFL and ABC based on the average of the current 2018 OFL and ABC amounts and preliminary Tier 5 OFL and ABC amounts provided by the Pacific cod stock assessment author. This precautionary approach provides a strong indication of decreases in the OFL and ABC amounts for the final harvest specifications. However, this was a temporary approach used only for these proposed specifications, and Pacific cod remains in Tier 3a. The SSC also strongly noted that the final 2018 and 2019 harvest specifications for Pacific cod could be even lower than those recommended in the proposed 2018 and 2019 harvest specifications once the stock assessment process has been completed and reviewed by December 2017.

The proposed Pacific cod OFL, ABC, and TAC amounts likely will further change once the Pacific cod stock assessment is finalized, reviewed by the Council's groundfish Plan Team in November, and then subsequently reviewed by the SSC, AP, and Council in December 2017. The proposed reductions to Pacific cod OFL, ABC, and TAC amounts apply in the BS, while for the AI, the proposed OFL, ABC, and TAC amounts are unchanged from the final 2018 amounts. The Council increased the proposed TACs of Atka mackerel, Pacific ocean perch, pollock, and rock sole to match the decrease of Pacific cod TAC in the BS, and these TACs could also change in the final specifications based on the final Pacific cod harvest amounts.

The amounts proposed for the 2018 and 2019 harvest specifications are based on the 2016 SAFE report, and initial survey data, and are subject to change in the final harvest specifications to be published by NMFS following the Council's December 2017 meeting. In November 2017, the Plan Team will update the 2016 SAFE report to include new information collected during 2017, such as NMFS stock surveys, revised stock assessments, and catch data. At its December 2017 meeting, the Council will consider information contained in the final 2017 SAFE report, recommendations from the November 2017 Plan Team meeting, public testimony from the December 2017 SSC and AP meetings, and relevant written comments in making its recommendations for the final 2018 and 2019 harvest specifications.

In previous years, the OFLs and ABCs that have had the most significant changes (relative to the amount of assessed tonnage of fish) from the proposed to the final harvest specifications have been for OFLs and ABCs that are based on the most recent NMFS stock surveys, which provide updated estimates of stock biomass and spatial distribution, and changes to the models used in the stock assessments. Any changes will be recommended by the Plan Team in November 2017 and then included in the final 2017 SAFE report. The final 2017 SAFE report will include the most recent information, such as catch data.

The final harvest specification amounts for these stocks are not expected to vary greatly from the proposed harvest specification amounts published here, except that Pacific cod harvest amounts could change and even decrease further, which could impact other TAC amounts in order to achieve OY, as explained earlier in this preamble. If the final 2017 SAFE report indicates that the stock biomass trend is increasing for a species, then the final 2018 and 2019 harvest specifications may reflect an increase from the proposed harvest specifications. Conversely, if the final 2017 SAFE report indicates that the stock biomass trend is decreasing for a species, then the final 2018 and 2019 harvest specifications may reflect a decrease from the proposed harvest specifications. In addition to changes driven by biomass trends, there may be changes in TACs due to the sum of ABCs exceeding 2 million mt. Since the regulations require TACs to be set to an OY between 1.4 and 2 million mt, the Council may be required to recommend TACs that are lower than the ABCs recommended by the Plan Team and the SSC, if setting TACs equal to ABCs would cause total TACs to exceed an OY of 2 million mt. Generally, total ABCs greatly exceed 2 million mt in years with a large pollock biomass. NMFS anticipates that, both for 2018 and 2019, the sum of the ABCs will exceed 2 million mt. NMFS expects that the final total TAC for the BSAI for both 2018 and 2019 will equal 2 million mt each year.

The proposed OFLs, ABCs, and TACs are based on the best available biological and socioeconomic data, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock

biomass. In general, the development of ABCs and OFLs involves statistical modeling of fish populations. The FMP specifies a series of six tiers to define OFLs and ABCs based on the level of reliable information available to fishery scientists. Tier 1 represents the highest level of information quality available, while Tier 6 represents the lowest.

In October 2017, the SSC adopted the proposed 2018 and 2019 OFLs and ABCs recommended by the Plan Team for all groundfish species, with the exception of the decreases for Pacific cod OFL and ABC in the BS. The Council adopted the SSC's OFL and ABC recommendations. These amounts are unchanged from the final 2018 harvest specifications published in the **Federal Register** on February 27, 2017 (82 FR 11826), with the exception of the decreases for BS Pacific cod OFL, ABC, and TAC and the related increases for Atka mackerel, Pacific ocean perch, pollock, and rock sole TAC amounts. The Council adopted the AP's TAC recommendations. For 2018 and 2019, the Council recommended and NMFS proposes the OFLs, ABCs, and TACs listed in Table 1. The proposed ABCs reflect harvest amounts that are less than the specified OFLs. The sum of the proposed 2018 and 2019 ABCs for all assessed groundfish is 4,167,913 mt, which is less than the final 2018 ABC total in the final 2017 and 2018 BSAI harvest specifications to account for the decrease in BS Pacific cod ABC (82 FR 11826, February 27, 2017). The sum of TACs is the same as the final 2018 TAC total in the final 2017 and 2018 BSAI harvest specifications, but the proposed harvest specifications reflect the decrease in the BS Pacific cod TAC amount and the corresponding increases in Atka mackerel, Pacific ocean perch, pollock, and rock sole TAC amounts.

Specification and Apportionment of TAC Amounts

The Council recommended proposed TACs for 2018 and 2019 Bering Sea and Eastern Aleutian Islands Atka mackerel that are equal to the proposed ABCs. The Council recommended proposed TACs less than the respective proposed ABCs for all other TACs. Section 679.20(a)(5)(iii)(B)(*1*) requires the AI pollock TAC to be set at 19,000 mt when the AI pollock ABC equals or exceeds 19,000 mt. The Bogoslof pollock TAC is set to accommodate incidental catch amounts. TACs are set so that the sum of the overall TAC does not exceed the BSAI OY.

The proposed groundfish OFLs, ABCs, and TACs are subject to change pending the completion of the final 2017 SAFE report and the Council's recommendations for final 2018 and 2019 harvest specifications during its December 2017 meeting. These proposed amounts are consistent with the biological condition of groundfish stocks as described in the 2016 SAFE report, and have been adjusted for other biological and socioeconomic considerations. Pursuant to Section 3.2.3.4.1 of the FMP, the Council could recommend adjusting the TACs if ''warranted on the basis of bycatch considerations, management uncertainty, or socioeconomic considerations; or if required in order to cause the sum of the TACs to fall within the OY range.'' Table 1 lists the proposed 2018 and 2019 OFL, ABC, TAC, initial TAC (ITAC), and CDQ amounts for groundfish for the BSAI. The proposed apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1—PROPOSED 2018 AND 2019 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	Proposed 2018 and 2019				
		OFL	ABC	TAC	ITAC [2]	CDQ [3 4]
Pollock [4]	BS	4,360,000	2,979,000	1,359,858	1,223,872	135,986
	AI	49,291	40,788	19,000	17,100	1,900
	Bogoslof	130,428	97,428	500	500	.....
Pacific cod [5]	BS	258,687	208,265	194,936	174,078	20,858
	AI	28,700	21,500	15,695	14,016	1,679
Sablefish	BS	1,519	1,291	1,274	541	175
	AI	2,072	1,758	1,735	369	293
Yellowfin sole	BSAI	276,000	250,800	154,000	137,522	16,478
Greenland turbot	BSAI	12,831	10,864	4,500	3,825	n/a
	BS	n/a	9,484	4,375	3,719	468
	AI	n/a	1,380	125	106	.....
Arrowtooth flounder	BSAI	67,023	58,633	14,000	11,900	1,498
Kamchatka flounder	BSAI	10,700	9,200	5,000	4,250	.....
Rock sole [6]	BSAI	147,300	143,100	50,100	44,739	5,361
Flathead sole [7]	BSAI	79,136	66,164	15,500	13,842	1,659
Alaska plaice	BSAI	36,900	32,100	13,000	11,050	.....
Other flatfish [8]	BSAI	17,591	13,193	2,500	2,125	.....
Pacific Ocean perch	BSAI	51,950	42,735	40,400	35,604	n/a
	BS	n/a	11,924	11,000	9,350	.....
	EAI	n/a	10,074	9,900	8,841	1,059
	CAI	n/a	7,828	7,500	6,698	803
	WAI	n/a	12,909	12,000	10,716	1,284
Northern rockfish	BSAI	15,854	12,947	5,000	4,250	.....
Blackspotted and Rougheye rockfish [10]	BSAI	750	614	225	191	.....
	EBS/EAI	n/a	374	100	85	.....
	CAI/WAI	n/a	240	125	106	.....
Shortraker rockfish	BSAI	666	499	125	106	.....
Other rockfish [10]	BSAI	1,816	1,362	875	744	.....
	BS	n/a	791	325	276	.....
	AI	n/a	571	550	468	.....
Atka mackerel	BSAI	99,900	85,000	69,410	61,983	7,427
	EAI/BS	n/a	34,000	34,000	30,362	3,638
	CAI	n/a	29,600	21,500	19,200	2,301

TABLE 1—PROPOSED 2018 AND 2019 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]—Continued

[Amounts are in metric tons]

Species	Area	Proposed 2018 and 2019				
		OFL	ABC	TAC	ITAC [2]	CDQ [3 4]
	WAI	n/a	21,400	13,910	12,422	1,488
Skates	BSAI	46,583	39,008	26,000	22,100	
Sculpins	BSAI	56,582	42,387	4,500	3,825	
Sharks	BSAI	689	517	125	106	
Squids	BSAI	6,912	5,184	1,342	1,141	
Octopuses	BSAI	4,769	3,576	400	340	
TOTAL		5,764,649	4,167,913	2,000,000	1,790,119	196,927

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the BS includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line or pot gear, and the Amendment 80 species (Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod), 15 percent of each TAC is put into a reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC.

[3] For the Amendment 80 species (Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC is allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC is allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(B) and (D)). The 2018 hook-and-line or pot gear portion of the sablefish ITAC and CDQ reserve will not be specified until the final 2018 and 2019 harvest specifications. Aleutian Islands Greenland turbot, "other flatfish," Alaska plaice, Bering Sea Pacific ocean perch, Kamchatka flounder, northern rockfish, shortraker rockfish, blackspotted and rougheye rockfish, "other rockfish," squids, octopuses, skates, sculpins, and sharks are not allocated to the CDQ Program.

[4] Under § 679.20(a)(5)(i)(A)(*1*), the annual BS pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (3.9 percent), is further allocated by sector for a pollock directed fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(*2*), the annual AI subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (2,400 mt), is allocated to the Aleut Corporation for a directed pollock fishery.

[5] The BS Pacific cod TAC is set less than 6.4 percent of the BS ABC to account for the State's guideline harvest level in State waters of the BS. The AI Pacific cod TAC is set less than 27 percent of the AI ABC to account for the State guideline harvest level in State waters of the AI.

[6] "Rock sole" includes *Lepidopsetta polyxystra* (Northern rock sole) and *Lepidopsetta bilineata* (Southern rock sole).

[7] "Flathead sole" includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[8] "Other flatfish" includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, Kamchatka flounder, and Alaska plaice.

[9] "Blackspotted and Rougheye rockfish" includes Sebastes melanostictus (blackspotted) and *Sebastes aleutianus* (rougheye).

[10] "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

Note: Regulatory areas and districts are defined at § 679.2 (BSAI=Bering Sea and Aleutian Islands management area, BS=Bering Sea subarea, AI=Aleutian Islands subarea, EAI=Eastern Aleutian district, CAI=Central Aleutian district, WAI=Western Aleutian district.)

Groundfish Reserves and the Incidental Catch Allowance (ICA) for Pollock, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and AI Pacific Ocean Perch

Section 679.20(b)(1)(i) requires NMFS to reserve 15 percent of the TAC for each target species category, except for pollock, hook-and-line and pot gear allocation of sablefish, and Amendment 80 species, in a non-specified reserve. Section 679.20(b)(1)(ii)(B) requires NMFS to allocate 20 percent of the hook-and-line or pot gear allocation of sablefish to the fixed gear sablefish CDQ reserve. Section 679.20(b)(1)(ii)(D) requires NMFS to allocate 7.5 percent of the trawl gear allocation of sablefish and 10.7 percent of Bering Sea Greenland turbot and arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires NMFS to allocate 10.7 percent of the TACs for Atka mackerel, AI Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod to the CDQ reserves. Sections 679.20(a)(5)(i)(A) and 679.31(a) also require allocation of 10 percent of the BS pollock TACs to the pollock CDQ directed fishing allowance (DFA). The entire Bogoslof District pollock TAC is allocated as an ICA pursuant to § 679.20(a)(5)(ii) because the Bogoslof Area is closed to directed fishing for pollock by regulation (§ 679.22(a)(7)(i)(B)). With the exception of the hook-and-line or pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ reserves by gear.

Pursuant to § 679.20(a)(5)(i)(A)(*1*), NMFS proposes a pollock ICA of 3.9 percent or 47,731 mt of the BS pollock TAC after subtracting the 10 percent CDQ reserve. This allowance is based on NMFS' examination of the pollock incidentally retained and discarded catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2000 through 2017. During this 18-year period, the pollock incidental catch ranged from a low of 2.4 percent in 2006 to a high of 4.8 percent in 2014, with a 18-year average of 3.3 percent. Pursuant to §§ 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), NMFS proposes a pollock ICA of 14 percent or 2,400 mt of the AI TAC after subtracting the 10-percent CDQ DFA. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels in target fisheries other than pollock from 2003 through 2017. During this 15-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 17 percent in 2014, with a 15-year average of 8 percent.

Pursuant to §§ 679.20(a)(8) and (10), NMFS proposes ICAs of 4,000 mt of flathead sole, 6,000 mt of rock sole, 4,000 mt of yellowfin sole, 10 mt of Western Aleutian District Pacific ocean perch, 60 mt of Central Aleutian District Pacific ocean perch, 100 mt of Eastern Aleutian District Pacific ocean perch, 20

mt of Western Aleutian District Atka mackerel, 75 mt of Central Aleutian District Atka mackerel, and 800 mt of Eastern Aleutian District and Bering Sea subarea Atka mackerel after subtracting the 10.7 percent CDQ reserve. These ICAs are based on NMFS' examination of the average incidental retained and discarded catch in other target fisheries from 2003 through 2017.

The regulations do not designate the remainder of the non-specified reserve by species or species group. Any amount of the reserve may be apportioned to a target species that contributed to the non-specified reserve during the year, provided that such apportionments are consistent with § 679.20(a)(3) and do not result in overfishing (see § 679.20(b)(1)(i)).

Allocations of Pollock TAC Under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that BS pollock TAC be apportioned as a DFA, after subtracting 10 percent for the CDQ Program and 3.9 percent for the ICA, as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor sector, and 10 percent to the mothership sector. In the BS, 45 percent of the DFA is allocated to the A season (January 20 to June 10) and 55 percent of the DFA is allocated to the B season (June 10 to November 1) (§§ 679.20(a)(5)(i)(B)(*1*) and 679.23(e)(2)). The AI directed pollock fishery allocation to the Aleut Corporation is the amount of pollock TAC remaining in the AI after subtracting 1,900 mt for the CDQ DFA (10 percent), and 2,400 mt for the ICA (§ 679.20(a)(5)(iii)(B)(*2*)). In the AI, the total A season apportionment of the pollock TAC (including the AI directed fishery allocation, the CDQ allowance, and the ICA) may equal up to 40 percent of the ABC for AI pollock, and the remainder of the pollock TAC is allocated to the B season (§ 679.20(a)(5)(iii)(B)(*3*)). Table 2 lists these proposed 2018 and 2019 amounts.

Section 679.20(a)(5)(iii)(B)(*6*) sets harvest limits for pollock in the A season (January 20 to June 10) in Areas 543, 542, and 541. In Area 543, the A season pollock harvest limit is no more than 5 percent of the Aleutian Islands pollock ABC. In Area 542, the A season pollock harvest limit is no more than 15 percent of the Aleutian Islands pollock ABC. In Area 541, the A season pollock harvest limit is no more than 30 percent of the Aleutian Islands pollock ABC.

Section 679.20(a)(5)(i)(A)(*4*) also includes several specific requirements regarding BS pollock allocations. First, it requires that 8.5 percent of the pollock allocated to the catcher/processor sector be available for harvest by AFA catcher vessels with catcher/processor sector endorsements, unless the Regional Administrator receives a cooperative contract that allows the distribution of harvest among AFA catcher/processors and AFA catcher vessels in a manner agreed to by all members. Second, AFA catcher/processors not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the catcher/processor sector. Table 2 lists the proposed 2018 and 2019 allocations of pollock TAC. Tables 13 through 16 list the AFA catcher/processor and catcher vessel harvesting sideboard limits. The BS inshore pollock cooperative and open access sector allocations are based on the submission of AFA inshore cooperative applications due to NMFS on December 1 of each calendar year. Because AFA inshore cooperative applications for 2018 have not been submitted to NMFS, and NMFS therefore cannot calculate 2018 allocations, NMFS has not included inshore cooperative text and tables in these proposed harvest specifications. NMFS will post 2018 AFA inshore pollock cooperative and open access sector allocations on the Alaska Region Web site at *http://alaskafisheries.noaa.gov* prior to the start of the fishing year on January 1, 2018, based on the harvest specifications effective on that date.

Table 2 also lists proposed seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest of pollock within the SCA, as defined at § 679.22(a)(7)(vii), is limited to no more than 28 percent of the DFA before 12:00 noon, April 1, as provided in § 679.20(a)(5)(i)(C). The A season pollock SCA harvest limit will be apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Table 2 lists these proposed 2018 and 2019 amounts by sector.

TABLE 2—PROPOSED 2018 AND 2019 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2018 and 2019 allocations	A season [1]		B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC	1,359,858	n/a	n/a	n/a
CDQ DFA	135,986	61,194	38,076	74,792
ICA [1]	47,731	n/a	n/a	n/a
AFA Inshore	588,071	264,632	164,660	323,439
AFA Catcher/Processors [3]	470,456	211,705	131,728	258,751
Catch by C/Ps	430,468	193,710	n/a	236,757
Catch by C/Vs [3]	39,989	17,995	n/a	21,994
Unlisted C/P Limit [4]	2,352	1,059	n/a	1,294
AFA Motherships	117,614	52,926	32,932	64,688
Excessive Harvesting Limit [5]	205,825	n/a	n/a	n/a
Excessive Processing Limit [6]	352,842	n/a	n/a	n/a
Total Bering Sea DFA (non-CDQ)	1,176,141	529,264	329,320	646,878
Aleutian Islands subarea ABC	40,788	n/a	n/a	n/a
Aleutian Islands subarea TAC	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	14,355	n/a	345
Area harvest limit [7]	n/a	n/a	n/a	n/a
Area 541 harvest limit [7]	12,236	n/a	n/a	n/a
Area 542 harvest limit [7]	6,118	n/a	n/a	n/a
Area 543 harvest limit [7]	2,039	n/a	n/a	n/a

TABLE 2—PROPOSED 2018 AND 2019 ALLOCATIONS OF POLLOCK TACs TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]—Continued

[Amounts are in metric tons]

Area and sector	2018 and 2019 allocations	A season [1]		B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bogoslof District ICA [8]	500	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the annual Bering Sea subarea pollock TAC, after subtracting the CDQ DFA (10 percent) and the ICA (3.9 percent), is allocated as a DFA as follows: inshore sector–50 percent, catcher/processor sector(C/Ps)–40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 45 percent of the DFA is allocated to the A season (January 20–June 10) and 55 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*), the annual AI pollock TAC, after subtracting first for the CDQ DFA (10 percent) and second for the ICA (2,400 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated up to 40 percent of the ABC, and the B season is allocated the remainder of the directed pollock fishery.

[2] In the Bering Sea subarea, pursuant to § 679.20(a)(5)(i)(c), no more than 28 percent of each sector's annual DFA may be taken from the SCA before noon, April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), not less than 8.5 percent of the DFA allocated to listed C/Ps shall be available for harvest only by eligible catcher vessels (CVs) delivering to listed CPs.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted C/Ps are limited to harvesting not more than 0.5 percent of the C/Ps sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC.

[8] Pursuant to § 679.22(a)(7)(i)(B), the amounts specified are for incidental catch only and are not apportioned by season or sector.

Allocation of the Atka Mackerel TACs

Section 679.20(a)(8) allocates the Atka mackerel TACs to the Amendment 80 and BSAI trawl limited access sectors, after subtracting the CDQ reserves, ICAs for the BSAI trawl limited access sector and non-trawl gear sectors, and the jig gear allocation (Table 3). The percentage of the ITAC for Atka mackerel allocated to the Amendment 80 and BSAI trawl limited access sectors is listed in Table 33 to 50 CFR part 679 and in § 679.91. Pursuant to § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and Bering Sea subarea Atka mackerel TAC may be allocated to vessels using jig gear. The percent of this allocation is recommended annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS proposes, a 0.5 percent allocation of the Atka mackerel TAC in the Eastern Aleutian District and Bering Sea subarea to jig gear in 2018 and 2019. This percentage is applied to the TAC after subtracting the CDQ reserve.

Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel TAC into two equal seasonal allowances. Section 679.23(e)(3) sets the first seasonal allowance for directed fishing with trawl gear from January 20 through June 10 (A season), and the second seasonal allowance from June 10 through December 31 (B season). Section 679.23(e)(4)(iii) applies Atka mackerel seasons to CDQ Atka mackerel fishing. The ICA and jig gear allocations are not apportioned by season.

Section 679.20(a)(8)(ii)(C)(*1*)(*i*) and (*ii*) limits Atka mackerel catch within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to 50 CFR part 679 and located west of 178° W longitude to no more than 60 percent of the annual TACs in Areas 542 and 543, and equally divides the annual TAC between the A and B seasons as defined at § 679.23(e)(3). Section 679.20(a)(8)(ii)(C)(*2*) requires the annual TAC in Area 543 will be no more than 65 percent of the ABC in Area 543. Section 679.20(a)(8)(ii)(D) requires that any unharvested Atka mackerel A season allowance that is added to the B season be prohibited from being harvested within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to 50 CFR part 679 and located in Areas 541, 542, and 543.

One Amendment 80 cooperative has formed for the 2018 fishing year. Because all Amendment 80 vessels are part of the cooperative, no allocation to the Amendment 80 limited access sector is required.

Table 3 lists the 2018 and 2019 Atka mackerel season allowances, area allowances, and the sector allocations. The 2019 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018. NMFS will post 2019 Amendment 80 cooperatives and Amendment 80 limited access allocations on the Alaska Region Web site at *http://alaskafisheries.noaa.gov* prior to the start of the fishing year on January 1, 2019, based on the harvest specifications effective on that date.

TABLE 3—PROPOSED 2018 AND 2019 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2018 and 2019 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District [5]
TAC	n/a	34,000	21,500	13,910

TABLE 3—PROPOSED 2018 AND 2019 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC—Continued

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2018 and 2019 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District [5]
CDQ reserve	Total	3,638	2,301	1,488
	A	1,819	1,150	744
	Critical habitat [5]	n/a	690	447
	B	1,819	1,150	744
	Critical habitat [5]	n/a	690	447
non-CDQ TAC	n/a	30,362	19,200	12,422
Jig [6]	Total	152		
ICA	Total	800	75	20
BSAI trawl limited access	Total	2,941	1,912	
	A	1,471	956	
	Critical habitat [5]	n/a	574	
	B	1,471	956	
	Critical habitat [5]	n/a	574	
Amendment 80	Total	26,469	17,212	12,402
	A	13,235	8,606	6,201
	Critical habitat [5]	n/a	5,164	3,720
	B	13,235	8,606	6,201
	Critical habitat [5]	n/a	5,164	3,720

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, the jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10, and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of Steller sea lion critical habitat; § 679.20(a)(8)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and § 679.20(a)(8)(ii)(C)(*2*) requires the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and Bering Sea subarea TAC be allocated to jig gear after subtraction of the CDQ reserve. The amount of this allocation is proposed at 0.5 percent. The jig gear allocation is not apportioned by season.

Allocation of the Pacific Cod TAC

The Council separated Bering Sea and Aleutian Islands subarea OFLs, ABCs, and TACs for Pacific cod in 2014 (79 FR 12108, March 4, 2014). Section 679.20(b)(1)(ii)(C) allocates 10.7 percent of the BS TAC and the AI TAC to the CDQ Program. After CDQ allocations have been deducted from the respective BS and AI Pacific cod TACs, the remaining BS and AI Pacific cod TACs are combined for calculating further BSAI Pacific cod sector allocations. If the non-CDQ Pacific cod TAC is or will be reached in either the BS or the AI, NMFS will prohibit non-CDQ directed fishing for Pacific cod in that subarea, as provided in § 679.20(d)(1)(iii).

As explained earlier in the ''Proposed ABC and TAC Harvest Specifications'' section, the Council recommended reduced Pacific cod OFL, ABC, and TAC amounts in the BS as a result of preliminary data indicating a decrease in biomass. For the AI, the proposed OFL, ABC, and TAC amounts are unchanged from those amounts implemented through the final 2018 harvest specifications published in February 2017. The proposed amounts could likely change, including a further decrease, once the 2017 Pacific cod stock assessment is finalized, reviewed by the Council's Plan Team in November, and then subsequently reviewed by the SSC, AP, and Council in December 2017.

Sections 679.20(a)(7)(i) and (ii) allocate the Pacific cod TAC in the combined BSAI TAC, after subtracting 10.7 percent for the CDQ Program, as follows: 1.4 percent to vessels using jig gear, 2.0 percent to hook-and-line or pot catcher vessels less than 60 ft (18.3 m) length overall (LOA), 0.2 percent to hook-and-line catcher vessels greater than or equal to 60 ft (18.3 m) LOA, 48.7 percent to hook-and-line catcher/processors, 8.4 percent to pot catcher vessels greater than or equal to 60 ft (18.3 m) LOA, 1.5 percent to pot catcher/processors, 2.3 percent to AFA trawl catcher/processors, 13.4 percent to the Amendment 80 sector, and 22.1 percent to trawl catcher vessels. The BSAI ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of BSAI Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2018 and 2019, the Regional Administrator proposes a BSAI ICA of 400 mt, based on anticipated incidental catch by these sectors in other fisheries.

The BSAI ITAC allocation of Pacific cod to the Amendment 80 sector is established in Table 33 to 50 CFR part 679 and § 679.91. One Amendment 80 cooperative has formed for the 2018 fishing year. Because all Amendment 80 vessels are part of the cooperative, no allocation to the Amendment 80 limited access sector is required.

The 2019 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018. NMFS will post 2019 Amendment 80 cooperatives and Amendment 80 limited access allocations on the Alaska Region Web site at *http://alaskafisheries.noaa.gov*

prior to the start of the fishing year on January 1, 2019, based on the harvest specifications effective on that date.

The Pacific cod TAC is apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (see §§ 679.20(a)(7)(i)(B), 679.20 (a)(7)(iv)(A), and 679.23(e)(5)). In accordance with §§ 679.20(a)(7)(iv)(B) and (C), any unused portion of a seasonal Pacific cod allowance for any sector, except the jig sector, will become available at the beginning of that sector's next seasonal allowance.

Section 679.20(a)(7)(vii) requires the Regional Administrator to establish an Area 543 Pacific cod harvest limit based on Pacific cod abundance in Area 543. Based on the 2016 stock assessment, the Regional Administrator determined the Area 543 Pacific cod harvest limit to be 26.3 percent of the AI Pacific cod TAC for 2018 and 2019. NMFS will first subtract the State GHL Pacific cod amount from the AI Pacific cod ABC. Then NMFS will determine the harvest limit in Area 543 by multiplying the percentage of Pacific cod estimated in Area 543 by the remaining ABC for AI Pacific cod. Based on these calculations, the Area 543 harvest limit is 4,128 mt.

Section 679.20(a)(7)(viii) requires specification of the 2018 and 2019 Pacific cod allocations for the Aleutian Islands ICA, non-CDQ DFA, CV Harvest Set-Aside, and Unrestricted Fishery, as well as the Bering Sea Trawl CV A-Season Sector Limitation. If NMFS receives notification of intent to process AI Pacific cod from either the city of Adak or the city of Atka, the harvest limits in Table 4a will be in effect in 2018 or 2019. Notification of intent to process AI Pacific cod must be postmarked by October 31 of the previous year, and submitted electronically to NMFS by October 31 of the previous year.

Prior to October 31, 2017, NMFS received timely notice from the City of Adak indicating an intent to process AI Pacific cod in 2018. Accordingly, the harvest limits in Table 4a will be in effect in 2018, subject to the performance requirements outlined in § 679.20(a)(7)(viii).

Section 679.20(a)(7)(viii) contains specific performance requirements that (1) if less than 1,000 mt of the Aleutian Islands CV Harvest Set-Aside is delivered to Aleutian Islands shoreplants by February 28 of that year, the Aleutian Islands CV Harvest Set-Aside is lifted and the Bering Sea Trawl CV A-Season Sector Limitation is suspended; and (2) if the entire Aleutian Islands CV Harvest Set-Aside is fully harvested and delivered to Aleutian Islands shoreplants before March 15 of that year, the Bering Sea Trawl CV A-Season Sector Limitation is suspended.

The CDQ and non-CDQ seasonal allowances by gear based on the proposed 2018 and 2019 Pacific cod TACs are listed in Table 4 based on the sector allocation percentages of Pacific cod set forth at §§ 679.20(a)(7)(i)(B) and (a)(7)(iv)(A) and the seasonal allowances of Pacific cod set forth at § 679.23(e)(5).

TABLE 4—PROPOSED 2018 AND 2019 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI [1] PACIFIC COD TAC

[Amounts are in metric tons]

Sector	Percent	2018 and 2019 share of gear sector total	2018 and 2019 share of sector total	2018 and 2019 seasonal apportionment	
				Season	Amount
Total Bering Sea TAC	n/a	194,936	n/a	n/a	n/a
Bering Sea CDQ	n/a	20,858	n/a	See § 679.20(a)(7)(i)(B)	n/a
Bering Sea non-CDQ TAC	n/a	174,078	n/a	n/a	n/a
Total Aleutian Islands TAC	n/a	15,695	n/a	n/a	n/a
Aleutian Islands CDQ	n/a	1,679	n/a	See § 679.20(a)(7)(i)(B)	n/a
Aleutian Islands non-CDQ TAC	n/a	14,016	n/a	n/a	n/a
Western Aleutians Islands Limit	n/a	4,128	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	100	188,093	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	114,361	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	n/a	400	n/a	n/a
Hook-and-line/pot sub-total	n/a	113,961	n/a	n/a	n/a
Hook-and-line catcher/processors	48.7	n/a	91,281	Jan 1–Jun 10	46,553
				Jun 10–Dec 31	44,728
Hook-and-line catcher vessels ≥60 ft LOA.	0.2	n/a	375	Jan 1–Jun 10	191
				Jun 10–Dec 31	184
Pot catcher/processors	1.5	n/a	2,812	Jan 1–Jun 10	1,434
				Sept 1–Dec 31	1,378
Pot catcher vessels ≥60 ft LOA	8.4	n/a	15,745	Jan 1–Jun 10	8,030
				Sept–1–Dec 31	7,715
Catcher vessels <60 ft LOA using hook-and-line or pot gear.	2	n/a	3,749	n/a	n/a
Trawl catcher vessels	22.1	41,569	n/a	Jan 20–Apr 1	30,761
				Apr 1–Jun 10	4,573
				Jun 10–Nov 1	6,235
AFA trawl catcher/processors	2.3	4,326	n/a	Jan 20–Apr 1	3,245
				Apr 1–Jun 10	1,082
				Jun 10–Nov 1	0
Amendment 80	13.4	25,205	n/a	Jan 20–Apr 1	18,903
				Apr 1–Jun 10	6,301
				Jun 10–Nov 1	0
Jig	1.4	2,633	n/a	Jan 1–Apr 30	1,580
				Apr 30–Aug 31	527
				Aug 31–Dec 31	527

[1] The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator proposes an ICA of 400 mt for 2018 and 2019 based on anticipated incidental catch in these fisheries.

TABLE 4a—PROPOSED 2018 AND 2019 BSAI A-SEASON PACIFIC COD LIMITS IF ALEUTIAN ISLANDS SHOREPLANTS INTEND TO PROCESS PACIFIC COD [1]

2018 and 2019 allocations under Aleutian Islands CV harvest set-aside	Amount (mt)
AI non-CDQ TAC	14,016
AI ICA	2,500
AI DFA	11,516
BS non-CDQ TAC	174,078
BSAI Trawl CV A-Season Allocation	30,761
BSAI Trawl CV A-Season Allocation minus Sector Limitation [2]	25,761
BS Trawl CV A-Season Sector Limitation	5,000
AI CV Harvest Set-Aside	5,000
AI Unrestricted Fishery	6,516

[1] These allocations will apply in 2018 or 2019 only if NMFS receives notice of intent to process AI Pacific cod by October 31 of the previous year, pursuant to § 679.20(a)(7)(viii), and if the performance requirements set forth in § 679.20(a)(7)(viii) are likewise met. Prior to October 31, 2017, NMFS received timely notice from the City of Adak indicating an intent to process AI Pacific cod for the 2018 season. Accordingly, the harvest limits in Table 4a will be in effect in 2018, subject to the performance requirements outlined in § 679.20(a)(7)(viii).

[2] This is the amount of the BSAI trawl CV A season allocation that may be harvested in the Bering Sea prior to March 21 of that year, unless modified because the performance requirements were not met.

Sablefish Gear Allocation

Sections 679.20(a)(4)(iii) and (iv) require allocation of sablefish TACs for the BS and AI between trawl gear and hook-and-line or pot gear. Gear allocations of the TACs for the BS are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear. Gear allocations for the TACs for the AI are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Section 679.20(b)(1)(ii)(B) requires NMFS to apportion 20 percent of the hook-and-line or pot gear allocation of sablefish to the CDQ reserve. Additionally, § 679.20(b)(1)(ii)(D)(*1*) requires that 7.5 percent of the trawl gear allocation of sablefish from the non-specified reserves, established under § 679.20(b)(1)(i), be apportioned to the CDQ reserve. The Council has recommended that only trawl sablefish TAC be established biennially. The harvest specifications for the hook-and-line gear or pot gear sablefish Individual Fishing Quota (IFQ) fisheries are limited to the 2018 fishing year to ensure those fisheries are conducted concurrently with the halibut IFQ fishery. Concurrent sablefish and halibut IFQ fisheries reduce the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries remain closed at the beginning of each fishing year until the final harvest specifications for the sablefish IFQ fisheries are in effect. Table 5 lists the proposed 2018 and 2019 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 5—PROPOSED 2018 AND 2019 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2018 Share of TAC	2018 ITAC [1]	2018 CDQ reserve	2019 Share of TAC	2019 ITAC	2019 CDQ reserve
Bering Sea:							
Trawl	50	637	541	48	637	541	48
Hook-and-line gear/pot [2]	50	637	n/a	127	n/a	n/a	n/a
Total	100	1,274	541	175	637	541	48
Aleutian Islands:							
Trawl	25	434	369	33	434	369	33
Hook-and-line gear/pot [2]	75	1,301	n/a	260	n/a	n/a	n/a
Total	100	1,735	369	293	434	369	33

[1] Except for the sablefish hook-and-line or pot gear allocation, 15 percent of TAC is apportioned to the non-specified reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.

[2] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants § 679.20(b)(1)(ii)(B)). The Council recommended that specifications for the hook-and-line or pot gear sablefish IFQ fisheries be limited to one year.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Allocation of the Aleutian Islands Pacific Ocean Perch, and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs

Sections 679.20(a)(10)(i) and (ii) require that NMFS allocate AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs between the Amendment 80 sector and the BSAI trawl limited access sector, after subtracting 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector is established in Tables 33 and 34 to 50 CFR part 679 and in § 679.91.

One Amendment 80 cooperative has formed for the 2018 fishing year. Because all Amendment 80 vessels are part of the cooperative, no allocation to the Amendment 80 limited access sector is required.

The 2019 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018. NMFS will post 2019 Amendment 80 cooperatives and Amendment 80 limited access allocations on the Alaska Region Web site at *http://alaskafisheries.noaa.gov* prior to the start of the fishing year on January 1, 2019, based on the harvest specifications effective on that date. Table 6 lists the proposed 2018 and 2019 allocations of the AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs.

TABLE 6—PROPOSED 2018 AND 2019 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	2018 and 2019 allocations					
	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	9,900	7,500	12,000	15,500	50,100	154,000
CDQ	1,059	803	1,284	1,659	5,361	16,478
ICA	100	60	10	4,000	6,000	4,000
BSAI trawl limited access	874	664	214	0	0	18,351
Amendment 80	7,867	5,974	10,492	9,842	38,739	115,171

Section 679.2 defines the ABC surplus for flathead sole, rock sole, and yellowfin sole as the difference between the annual ABC and TAC for each species. Section 679.20(b)(1)(iii) establishes ABC reserves for flathead sole, rock sole, and yellowfin sole. The ABC surpluses and the ABC reserves are necessary to mitigate the operational variability, environmental conditions, and economic factors that may constrain the CDQ groups and the Amendment 80 cooperatives from achieving, on a continuing basis, the optimum yield in the BSAI groundfish fisheries. NMFS, after consultation with the Council, may set the ABC reserve at or below the ABC surplus for each species thus maintaining the TAC below ABC limits. An amount equal to 10.7 percent of the ABC reserves will be allocated as CDQ ABC reserves for flathead sole, rock sole, and yellowfin sole. The Amendment 80 ABC reserves shall be the ABC reserves minus the CDQ ABC reserves. Section 679.91(i)(2) establishes each Amendment 80 cooperative ABC reserve to be the ratio of each cooperatives' quota share units and the total Amendment 80 quota share units, multiplied by the Amendment 80 ABC reserve for each respective species. Table 7 lists the 2018 and 2019 ABC surplus and ABC reserves for BSAI flathead sole, rock sole, and yellowfin sole.

TABLE 7—PROPOSED 2018 AND 2019 ABC SURPLUS, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	Flathead sole	Rock sole	Yellowfin sole
ABC	66,164	143,100	250,800
TAC	15,500	50,100	154,000
ABC surplus	50,664	93,000	96,800
ABC reserve	50,664	93,000	96,800
CDQ ABC reserve	5,421	9,951	10,358
Amendment 80 ABC reserve	45,243	83,049	86,442

Proposed PSC Limits for Halibut, Salmon, Crab, and Herring

Sections 679.21(b), (e), (f), and (g) set forth the BSAI PSC limits. Pursuant to § 679.21(b)(1), the 2018 and 2019 BSAI halibut PSC limits total 3,515 mt. Section 679.21(b)(1) allocates 315 mt of the halibut PSC limit as the PSQ reserve for use by the groundfish CDQ Program, 1,745 mt of halibut PSC limit for the Amendment 80 sector, 745 mt of halibut PSC limit for the BSAI trawl limited access sector, and 710 mt of halibut PSC limit for the BSAI non-trawl sector.

Sections 679.21(b)(1)(iii)(A) and (B) authorize apportionment of the BSAI non-trawl halibut PSC limit into PSC allowances among six fishery categories, and § 679.21(b)(1)(ii)(A) and (B), (e)(3)(i)(B), and (e)(3)(iv) require apportionment of the BSAI trawl limited

access halibut and crab PSC limits into PSC allowances among seven fishery categories. Table 10 lists the proposed fishery PSC allowances for the BSAI trawl limited access fisheries, and Table 11 lists the proposed fishery PSC allowances for the non-trawl fisheries.

Pursuant to Section 3.6 of the FMP, the Council recommends, and NMFS proposes, that certain specified non-trawl fisheries be exempt from the halibut PSC limit. As in past years, after consultation with the Council, NMFS exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions for the following reasons: (1) The pot gear fisheries have low halibut bycatch mortality; (2) NMFS estimates halibut mortality for the jig gear fleet to be negligible because of the small size of the fishery and the selectivity of the gear; and (3) the sablefish and halibut IFQ fisheries have low halibut bycatch mortality because the IFQ Program requires legal-size halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating (§ 679.7(f)(11)).

As of November 2017, total groundfish catch for the pot gear fishery in the BSAI was 42,662 mt, with an associated halibut bycatch mortality of 3 mt. The 2017 jig gear fishery harvested about 13 mt of groundfish. Most vessels in the jig gear fleet are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. As mentioned above, NMFS estimates a negligible amount of halibut bycatch mortality because of the selective nature of jig gear and the low mortality rate of halibut caught with jig gear and released.

Under § 679.21(f)(2), NMFS annually allocates portions of either 33,318, 45,000, 47,591, or 60,000 Chinook salmon PSC limits among the AFA sectors, depending on past bycatch performance, on whether Chinook salmon bycatch incentive plan agreements (IPAs) are formed, and on whether NMFS determines it is a low Chinook salmon abundance year. NMFS will determine that it is a low Chinook salmon abundance year when abundance of Chinook salmon in western Alaska is less than or equal to 250,000 Chinook salmon. The State provides to NMFS an estimate of Chinook salmon abundance using the 3-System Index for western Alaska based on the Kuskokwim, Unalakleet, and Upper Yukon aggregate stock grouping.

If an AFA sector participates in an approved IPA and has not exceeded its performance standard under § 679.21(f)(6) and if it is not a low Chinook salmon abundance year, then NMFS will allocate a portion of the 60,000 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(A). If no IPA is approved, or if the sector has exceeded its performance standard under § 679.21(f)(6), and it is not a low abundance year, NMFS will allocate a portion of the 47,591 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(C). If an AFA sector participates in an approved IPA and has not exceeded its performance standard under § 679.21(f)(6) in a low abundance year, then NMFS will allocate a portion of the 45,000 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(B). If no IPA is approved, or if the sector has exceeded its performance standard under § 679.21(f)(6) in a low abundance year, NMFS will allocate a portion of the 33,318 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(D).

As of October 1, 2017, NMFS has determined that it is not a low Chinook salmon abundance year, based on the State's estimate that Chinook salmon abundance in western Alaska is greater than 250,000 Chinook salmon. Therefore, in 2018, the Chinook salmon PSC limit is 60,000 Chinook salmon, allocated to each sector as specified in § 679.21(f)(3)(iii)(A). The AFA sector Chinook salmon allocations are also seasonally apportioned with 70 percent of the allocation for the A season pollock fishery, and 30 percent of the allocation for the B season pollock fishery, as provided in § 679.21(f)(3)(i) and § 679.23(e)(2). Additionally, in 2017, the Chinook salmon bycatch performance standard under § 679.21(f)(6) is 47,591 Chinook salmon, allocated to each sector as specified in § 679.21(f)(3)(iii)(C).

The basis for these PSC limits is described in detail in the final rule implementing management measures for Amendment 91 (75 FR 53026, August 30, 2010) and Amendment 110 (81 FR 37534, June 10, 2016). NMFS publishes the approved IPAs, allocations, and reports at *http://alaskafisheries.noaa.gov/sustainablefisheries/bycatch/default.htm.*

Section 679.21(g)(2)(i) specifies 700 fish as the 2018 and 2019 Chinook salmon PSC limit for the AI pollock fishery. Section 679.21(g)(2)(ii) allocates 7.5 percent, or 53 Chinook salmon, as the AI PSQ reserve for the CDQ Program and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries.

Section 679.21(f)(14)(i) specifies 42,000 fish as the 2018 and 2019 non-Chinook salmon PSC limit in the Catcher Vessel Operational Area (CVOA). Section 679.21(f)(14)(ii) allocates 10.7 percent, or 4,494, non-Chinook salmon in the CVOA as the PSQ reserve for the CDQ Program, and allocates the remaining 37,506 non-Chinook salmon in the CVOA to the non-CDQ fisheries.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass. Due to the lack of new information as of October 2017 regarding herring PSC limits and apportionments, the Council recommended and NMFS proposes basing the herring 2018 and 2019 PSC limits and apportionments on the 2016 survey data. The Council will reconsider these amounts in December 2017.

Section 679.21(e)(3)(i)(A)(*1*) allocates 10.7 percent of each trawl gear PSC limit specified for crab as a PSQ reserve for use by the groundfish CDQ Program.

Based on 2017 survey data, the red king crab mature female abundance is estimated at 18.5 million red king crabs, and the effective spawning biomass is estimated at 39,776 million lbs (18,042 mt). Based on the criteria set out at § 679.21(e)(1)(i), the proposed 2018 and 2019 PSC limit of red king crab in Zone 1 for trawl gear is 97,000 animals. This limit derives from the mature female abundance estimate of more than 8.4 million red king crab and the effective spawning biomass estimate of more than 14.5 million lbs (6,577 mt) but less than 55 million lbs (24,948 mt).

Section 679.21(e)(3)(ii)(B)(*2*) establishes criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS bycatch to up to 25 percent of the red king crab PSC allowance based on the need to optimize the groundfish harvest relative to red king crab bycatch. NMFS proposes the Council's recommendation that the red king crab bycatch limit be equal to 25 percent of the red king crab PSC allowance within the RKCSS (Table 9). Based on 2017 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 344 million animals. Pursuant to criteria set out at § 679.21(e)(1)(ii), the calculated 2018 and 2019 *C. bairdi* crab PSC limit for trawl gear is 830,000 animals in Zone 1, and 2,520,000 animals in Zone 2. The limit in Zone 1 is based on the abundance of *C. bairdi* estimated at 344 million animals, which is greater than

270 million and less than 400 million animals. The limit in Zone 2 is based on the abundance of *C. bairdi* estimated at 344 million animals, which is greater than 290 million animals and less than 400 million animals.

Pursuant to § 679.21(e)(1)(iii), the PSC limit for snow crab (*C. opilio*) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit in the *C. opilio* bycatch limitation zone (COBLZ) is set at 0.1133 percent of the Bering Sea abundance index minus 150,000 crabs. Based on the 2017 survey estimate of 8.182 billion animals, which is above the minimum PSC limit of 4.5 million and below the maximum PSC limit of 13 million animals, the calculated *C. opilio* crab PSC limit is 9,120,539 animals.

Pursuant to § 679.21(e)(1)(v), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 2018 and 2019 herring biomass is 201,278 mt. This amount was developed by the Alaska Department of Fish and Game based on biomass for spawning aggregations. Therefore, the herring PSC limit proposed for 2018 and 2019 is 2,013 mt for all trawl gear as listed in Tables 8 and 9.

Section 679.21(e)(3)(i)(A) requires PSQ reserves to be subtracted from the total trawl PSC limits. The 2018 crab and halibut PSC limits assigned to the Amendment 80 and BSAI trawl limited access sectors are specified in Table 35 to 50 CFR part 679. The resulting allocations of PSC limits to CDQ PSQ, the Amendment 80 sector, and the BSAI trawl limited access sector are listed in Table 8.

One Amendment 80 cooperative has formed for the 2018 fishing year. Because all Amendment 80 vessels are part of the cooperative, no allocation to the Amendment 80 limited access sector is required.

The 2019 PSC limit allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018. NMFS will post 2019 Amendment 80 cooperatives and Amendment 80 limited access allocations on the Alaska Region Web site at *http://alaskafisheries.noaa.gov* prior to the start of the fishing year on January 1, 2019, based on the harvest specifications effective on that date.

Sections 679.21(b)(2) and (e)(5) authorize NMFS, after consulting with the Council, to establish seasonal apportionments of PSC amounts for the BSAI non-trawl, BSAI trawl limited access, and Amendment 80 limited access sectors to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors considered are (1) seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species relative to prohibited species distribution, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass and expected catches of target groundfish species, (4) expected variations in bycatch rates throughout the year, (5) expected changes in directed groundfish fishing seasons, (6) expected start of fishing effort, and (7) economic effects of seasonal PSC apportionments on industry sectors. The Council recommended and NMFS proposes the seasonal PSC apportionments in Tables 10 and 11 to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 8—PROPOSED 2018 AND 2019 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species and area [1]	Total PSC	Non-trawl PSC	CDQ PSQ reserve [2]	Trawl PSC remaining after CDQ PSQ	Amendment 80 sector [3]	BSAI trawl limited access fishery
Halibut mortality (mt) BSAI	3,515	710	315	n/a	1,745	745
Herring (mt) BSAI	2,013	n/a	n/a	n/a	n/a	n/a
Red king crab (animals) Zone 1	97,000	n/a	10,379	86,621	43,293	26,489
C. opilio (animals) COBLZ	9,120,539	n/a	975,898	8,144,641	4,003,091	2,617,688
C. bairdi crab (animals) Zone 1	830,000	n/a	88,810	741,190	312,115	348,285
C. bairdi crab (animals) Zone 2	2,520,000	n/a	269,640	2,250,360	532,660	1,053,394

[1] Refer to § 679.2 for definitions of zones.
[2] The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.
[3] The Amendment 80 program reduced apportionment of the trawl PSC limits for crab below the total PSC limit. These reductions are not apportioned to other gear types or sectors.

TABLE 9—PROPOSED 2018 AND 2019 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole	100	n/a
Rock sole/flathead sole/other flatfish [1]	43	n/a
Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish	5	n/a
Rockfish	5	n/a
Pacific cod	10	n/a
Midwater trawl pollock	1,800	n/a
Pollock/Atka mackerel/other species [2] [3]	50	n/a
Red king crab savings subarea non-pelagic trawl gear [4]	n/a	24,250
Total trawl PSC	2,013	97,000

[1] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.
[2] Pollock other than midwater trawl pollock, Atka mackerel, and "other species" fishery category.

[3] "Other species" for PSC monitoring includes sculpins, sharks, skates, squids, and octopuses.
[4] In October 2017 the Council recommended that the red king crab bycatch limit for non-pelagic trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC allowance (see § 679.21(e)(3)(ii)(B)(*2*)).
Note: Species apportionments may not total precisely due to rounding.

TABLE 10—PROPOSED 2018 AND 2019 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR

BSAI trawl limited access fisheries	Prohibited species and area [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Yellowfin sole	150	23,338	2,467,662	293,234	1,005,879
Rock sole/flathead sole/other flatfish [2]					0
Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish					0
Rockfish April 15–December 31	4		4,076		849
Pacific cod	391	2,954	105,182	50,816	42,424
Pollock/Atka mackerel/other species [3]	200	197	40,768	4,235	4,243
Total BSAI trawl limited access PSC	745	26,489	2,617,688	348,285	1,053,394

[1] Refer to § 679.2 for definitions of areas.
[2] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.
[3] "Other species" for PSC monitoring includes sculpins, sharks, skates, squids, and octopuses.
Note: Species apportionments may not total precisely due to rounding.

TABLE 11—PROPOSED 2018 AND 2019 HALIBUT PROHIBITED SPECIES BYCATCH ALLOWANCES FOR NON-TRAWL FISHERIES

Halibut mortality (mt) BSAI				
Non-trawl fisheries	Seasons	Catcher/processor	Catcher vessel	All non-trawl
Pacific cod	Annual Pacific cod	648	13	n/a.
	January 1–June 10	388	9	n/a.
	June 10–August 15	162	2	n/a.
	August 15–December 31	98	2	n/a.
Non-Pacific cod non-trawl-Total	May 1–December 31	n/a	n/a	49.
Groundfish pot and jig	n/a	n/a	n/a	Exempt.
Sablefish hook-and-line	n/a	n/a	n/a	Exempt.
Total for all non-trawl PSC	n/a	n/a	n/a	710.

Halibut Discard Mortality Rates

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut incidental catch rates, halibut discard mortality rates (DMRs), and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. Halibut incidental catch rates are based on observers' estimates of halibut incidental catch in the groundfish fishery. DMRs are estimates of the proportion of incidentally caught halibut that do not survive after being returned to the sea. The cumulative halibut mortality that accrues to a particular halibut PSC limit is the product of a DMR multiplied by the estimated halibut PSC. DMRs are estimated using the best scientific information available in conjunction with the annual BSAI stock assessment process. The DMR methodology and findings are included as an appendix to the annual BSAI groundfish SAFE report.

In 2016, the DMR estimation methodology underwent revisions per the Council's directive. An interagency halibut working group (IPHC, Council, and NMFS staff) developed improved estimation methods that have undergone review by the Plan Team, SSC, and the Council. A summary of the revised methodology is included in the BSAI proposed 2017 and 2018 harvest specifications (81 FR 87863, December 6, 2016), and the comprehensive discussion of the working group's statistical methodology is available from the Council (see **ADDRESSES**). The DMR working group's revised methodology is intended to improve estimation accuracy, as well as transparency and transferability in the methodology used, for calculating DMRs. The working group will continue to consider improvements to the methodology used to calculate halibut mortality, including potential changes to the reference period (the period of data used for calculating the DMRs). Future DMRs may change based on additional years of observer sampling, which could provide more recent and accurate data and which could improve the accuracy of estimation and progress on methodology. The new methodology will continue to ensure that NMFS is using DMRs that more accurately reflect halibut mortality, which will inform the different sectors of their estimated halibut mortality and allow specific sectors to respond with methods that could reduce mortality and, eventually, the DMR for that sector.

At the December 2016 meeting, the SSC, AP, and Council concurred in the revised DMR estimation methodology, and NMFS adopted the DMRs calculated under the revised methodology for the 2016 and 2017 harvest specifications. In October 2017,

the Council recommended adopting the halibut DMRs derived from the 2016 process for the proposed 2018 and 2019 DMRs. The proposed 2018 and 2019 DMRs maintain the new estimation method adopted in 2016 using an updated 3-year reference period of 2014 through 2016. The proposed DMR for motherships and catcher/processors using non-pelagic trawl gear decreased to 84 percent from 85 percent, the proposed DMR for catcher vessels using non-pelagic trawl gear increased to 60 percent from 52 percent, the proposed DMR for catcher vessels using hook-and-line gear increased to 17 percent from 14 percent, and the proposed DMR for pot gear increased to 9 percent from 6 percent. Table 12 lists the proposed 2018 and 2019 DMRs.

TABLE 12—PROPOSED 2018 AND 2019 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Sector	Halibut discard mortality rate (percent)
Pelagic trawl	All	100
Non-pelagic trawl	Mothership and catcher/processor	84
Non-pelagic trawl	Catcher vessel	60
Hook-and-line	Catcher vessel	17
Hook-and-line	Catcher/processor	8
Pot	All	9

Listed AFA Catcher/Processor Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of listed AFA catcher/processors to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery. These restrictions are set out as ''sideboard'' limits on catch. The basis for these proposed sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Table 13 lists the proposed 2018 and 2019 catcher/processor sideboard limits.

All harvest of groundfish sideboard species by listed AFA catcher/processors, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Table 13. However, groundfish sideboard species that are delivered to listed AFA catcher/processors by catcher vessels will not be deducted from the 2018 and 2019 sideboard limits for the listed AFA catcher/processors.

TABLE 13—PROPOSED 2018 AND 2019 BSAI GROUNDFISH SIDEBOARD LIMITS FOR LISTED AMERICAN FISHERIES ACT CATCHER/PROCESSORS (C/PS)

[Amounts are in metric tons]

Target species	Area	1995–1997			2018 and 2019 ITAC available to all trawl C/Ps [1]	2018 and 2019 AFA C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch		
Sablefish trawl	BS	8	497	0.0160	541	9
	AI	.....	145	.....	369	.....
Greenland turbot	BS	121	17,305	0.0070	3,825	27
	AI	23	4,987	0.0050	106	1
Arrowtooth flounder	BSAI	76	33,987	0.0020	11,900	24
Kamchatka flounder	BSAI	76	33,987	0.0020	4,250	9
Rock sole	BSAI	6,317	169,362	0.0370	44,739	1,655
Flathead sole	BSAI	1,925	52,755	0.0360	13,842	498
Alaska plaice	BSAI	14	9,438	0.0010	11,050	11
Other flatfish	BSAI	3,058	52,298	0.0580	2,125	123
Pacific ocean perch	BS	12	4,879	0.0020	9,350	19
	Eastern AI	125	6,179	0.0200	8,841	177
	Central AI	3	5,698	0.0010	6,698	7
	Western AI	54	13,598	0.0040	10,716	43
Northern rockfish	BSAI	91	13,040	0.0070	4,250	30
Rougheye rockfish	EBS/EAI	50	2,811	0.0180	85	2
	CAI/WAI	50	2,811	0.0180	106	2
Shortraker rockfish	BSAI	50	2,811	0.0180	106	2
Other rockfish	BS	18	621	0.0290	276	8
	AI	22	806	0.0270	468	13
Atka mackerel	Central AI	n/a	n/a	0.1150	19,200	2,208
	A season [2]	n/a	n/a	0.1150	9,600	1,104
	B season [2]	n/a	n/a	0.1150	9,600	1,104
	Western AI	n/a	n/a	0.2000	12,422	2,484
	A season [2]	n/a	n/a	0.2000	6,211	1,242
	B season [2]	n/a	n/a	0.2000	6,211	1,242
Skates	BSAI	553	68,672	0.0080	22,100	177
Sculpins	BSAI	553	68,672	0.0080	3,825	31
Sharks	BSAI	553	68,672	0.0080	106	1

TABLE 13—PROPOSED 2018 AND 2019 BSAI GROUNDFISH SIDEBOARD LIMITS FOR LISTED AMERICAN FISHERIES ACT CATCHER/PROCESSORS (C/PS)—Continued

[Amounts are in metric tons]

Target species	Area	1995–1997			2018 and 2019 ITAC available to all trawl C/Ps [1]	2018 and 2019 AFA C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch		
Squids	BSAI	73	3,328	0.0220	1,141	25
Octopuses	BSAI	553	68,672	0.0080	340	3

[1] Aleutians Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, rock sole, and yellowfin sole are multiplied by the remainder of the TAC after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

[2] The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the annual ITAC specified for the Western Aleutian District, and 11.5 percent of the annual ITAC specified for the Central Aleutian District.

Note: Section 679.64(a)(1)(v) exempts AFA catcher/processors from a yellowfin sole sideboard limit because the 2018 and 2019 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than 125,000 mt.

Section 679.64(a)(2) and Tables 40 and 41 to 50 CFR part 679 establish a formula for calculating PSC sideboard limits for halibut and crab caught by listed AFA catcher/processors. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007).

PSC species listed in Table 14 that are caught by listed AFA catcher/processors participating in any groundfish fishery other than pollock will accrue against the proposed 2018 and 2019 PSC sideboard limits for the listed AFA catcher/processors. Sections 679.21(b)(4)(iii), (e)(7), and (e)(3)(v) authorize NMFS to close directed fishing for groundfish other than pollock for listed AFA catcher/processors once a proposed 2018 or 2019 PSC sideboard limit listed in Table 14 is reached.

Pursuant to § 679.21(b)(1)(ii)(C) and (e)(3)(ii)(C), halibut or crab PSC caught by listed AFA catcher/processors while fishing for pollock will accrue against the PSC allowances annually specified for the pollock/Atka mackerel/''other species'' fishery categories, according to § 679.21(b)(1)(ii)(B) and (e)(3)(iv).

TABLE 14—PROPOSED 2018 AND 2019 BSAI PROHIBITED SPECIES SIDEBOARD LIMITS FOR AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSORS

PSC species and area [1]	Ratio of PSC to total PSC	Proposed 2018 and 2019 PSC available to trawl vessels after subtraction of PSQ [2]	Proposed 2018 and 2019 C/P sideboard limit [2]
BSAI Halibut mortality	n/a	n/a	286
Red king crab Zone 1	0.007	86,621	606
C. opilio (COBLZ)	0.153	8,144,641	1,246,130
C. bairdi Zone 1	0.140	741,190	103,767
C. bairdi Zone 2	0.050	2,250,360	112,518

[1] Refer to § 679.2 for definitions of areas.

[2] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

AFA Catcher Vessel Sideboard Limits

Pursuant to § 679.64(b), the Regional Administrator is responsible for restricting the ability of AFA catcher vessels to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery. Section 679.64(b)(3) and (b)(4) establish formulas for setting AFA catcher vessel groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Tables 15 and 16 list the proposed 2018 and 2019 AFA catcher vessel sideboard limits.

All catch of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or as incidental catch, will be deducted from the 2018 and 2019 sideboard limits listed in Table 15.

TABLE 15—PROPOSED 2018 AND 2019 BSAI GROUNDFISH SIDEBOARD LIMITS FOR AMERICAN FISHERIES ACT CATCHER VESSELS (CVS)

[Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2018 and 2019 initial TAC [1]	2018 and 2019 AFA catcher vessel sideboard limits
Pacific cod	BSAI	n/a	n/a	n/a
	Jig gear		2,633	
	Hook-and-line CV >60 ft LOA	n/a	n/a	n/a
	Jan 1–Jun 10	0.0006	191	0
	Jun 10–Dec 31	0.0006	184	0
	Pot gear CV >60 ft LOA	n/a	n/a	n/a
	Jan 1–Jun 10	0.0006	8,030	5
	Sept 1–Dec 31	0.0006	7,715	5
	CV <60 ft LOA using hook-and-line or pot gear.	0.0006	3,749	2
	Trawl gear CV	n/a	n/a	n/a
	Jan 20–Apr 1	0.8609	30,761	26,482
	Apr 1–un 10	0.8609	4,573	3,937
	Jun 10–Nov 1	0.8609	6,235	5,368
Sablefish	BS trawl gear	0.0906	541	49
	AI trawl gear	0.0645	369	24
Greenland turbot	BS	0.0645	3,719	240
	AI	0.0205	106	2
Arrowtooth flounder	BSAI	0.0690	11,900	821
Kamchatka flounder	BSAI	0.0690	4,250	293
Rock sole	BSAI	0.0341	44,739	1,526
Flathead sole	BS trawl gear	0.0505	13,842	699
Alaska plaice	BSAI	0.0441	11,050	487
Other flatfish	BSAI	0.0441	2,125	94
Pacific ocean perch	BS	0.1000	9,350	935
	Eastern AI	0.0077	8,841	68
	Central AI	0.0025	6,698	17
	Western AI		10,716	
Northern rockfish	BSAI	0.0084	4,250	36
Rougheye rockfish	EBS/EAI	0.0037	85	0
	CAI/WAI	0.0037	106	0
Shortraker rockfish	BSAI	0.0037	106	0
Other rockfish	BS	0.0048	276	1
	AI	0.0095	468	4
Atka mackerel	Eastern AI/BS	n/a	30,362	n/a
	Jan 1–Jun 10	0.0032	15,181	49
	Jun 10–Nov 1	0.0032	15,181	49
	Central AI	n/a	19,200	n/a
	Jan 1–Jun 10	0.0001	9,600	1
	Jun 10–Nov 1	0.0001	9,600	1
	Western AI	n/a	12,422	n/a
	Jan 1–Jun 10		6,211	
	Jun 10–Nov 1		6,211	
Skates	BSAI	0.0541	22,100	1,196
Sculpins	BSAI	0.0541	3,825	207
Sharks	BSAI	0.0541	106	6
Squids	BSAI	0.3827	1,141	437
Octopuses	BSAI	0.0541	340	18

[1] Aleutians Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, rock sole, and yellowfin sole are multiplied by the remainder of the TAC of that species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

Note: Section 679.64(b)(6) exempts AFA catcher vessels from a yellowfin sole sideboard limit because the 2018 and 2019 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than 125,000 mt.

Halibut and crab PSC limits listed in Table 16 that are caught by AFA catcher vessels participating in any groundfish fishery other than pollock will accrue against the 2018 and 2019 PSC sideboard limits for the AFA catcher vessels. Section 679.21(b)(4)(iii), (e)(7), and (e)(3)(v) authorize NMFS to close directed fishing for groundfish other than pollock for AFA catcher vessels once a proposed 2018 and 2019 PSC sideboard limit listed in Table 16 is reached. Pursuant to § 679.21(b)(1)(ii)(C) and (e)(3)(ii)(C), halibut or crab PSC caught by AFA catcher vessels while fishing for pollock in the BS will accrue against the bycatch allowances annually specified for the pollock/Atka mackerel/''other species'' fishery categories under § 679.21(b)(1)(ii)(B) and (e)(3)(iv).

TABLE 16—PROPOSED 2018 AND 2019 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI [1]

PSC species and area [1]	Target fishery category [2]	AFA catcher vessel PSC sideboard limit ratio	Proposed 2018 and 2019 PSC limit after subtraction of PSQ reserves [3]	Proposed 2018 and 2019 AFA catcher vessel PSC sideboard limit [3]
Halibut	Pacific cod trawl	n/a	n/a	887
	Pacific cod hook-and-line or pot	n/a	n/a	2
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/other flatfish.[4]	n/a	n/a	228
	Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish.	n/a	n/a	
	Rockfish	n/a	n/a	2
	Pollock/Atka mackerel/other species.[5]	n/a	n/a	5
Red king crab Zone 1	n/a	0.2990	86,621	25,900
C. opilio COBLZ	n/a	0.1680	8,144,641	1,368,300
C. bairdi Zone 1	n/a	0.3300	741,190	244,593
C. bairdi Zone 2	n/a	0.1860	2,250,360	418,567

[1] Refer to § 679.2 for definitions of areas.
[2] Target fishery categories are defined at § 679.21(b)(1)(ii)(B).
[3] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[4] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), arrowtooth flounder, Kamchatka flounder, flathead sole, Greenland turbot, rock sole, and yellowfin sole.
[5] ''Other species'' for PSC monitoring includes skates, sculpins, sharks, and octopuses.

Classification

NMFS has determined that the proposed harvest specifications are consistent with the FMP and preliminarily determined that the proposed harvest specifications are consistent with the Magnuson-Stevens Act and other applicable laws, and subject to further review after public comment.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866.

NMFS prepared an EIS for this action and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the Final EIS. A Supplemental Information Report (SIR) that assesses the need to prepare a Supplemental EIS is being prepared for the final action. Copies of the Final EIS, ROD, and SIR for this action are available from NMFS (see **ADDRESSES**). The Final EIS analyzes the environmental consequences of the proposed groundfish harvest specifications and alternative harvest strategies on resources in the action area. The Final EIS found no significant environmental consequences from the proposed action or its alternatives.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA), as required by section 603 of the Regulatory Flexibility Act (RFA), analyzing the methodology for establishing the relevant TACs. The IRFA evaluates the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the exclusive economic zone off Alaska. As described in the methodology, TACs are set to a level that falls within the range of ABCs recommended by the SSC; the sum of the TACs must achieve OY specified in the FMP. While the specific numbers that the methodology may produce vary from year to year, the methodology itself remains constant.

A description of the proposed action, why it is being considered, and the legal basis for this proposed action are contained in the preamble above. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The action under consideration is a harvest strategy to govern the catch of groundfish in the BSAI. The preferred alternative is the existing harvest strategy in which TACs fall within the range of ABCs recommended by the SSC, but, as discussed below, NMFS considered other alternatives. This action is taken in accordance with the FMP prepared by the Council pursuant to the Magnuson-Stevens Act.

The entities directly regulated by this action are those that harvest groundfish in the exclusive economic zone of the BSAI and in parallel fisheries within State waters. These include entities operating catcher vessels and catcher/processors within the action area and entities receiving direct allocations of groundfish.

For RFA 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 11411) 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 gross receipts not in excess of $11 million for all its affiliated operations worldwide.

The estimated number of directly regulated small entities in 2016 include approximately 119 catcher vessels, five catcher/processors, and six CDQ groups. Some of these vessels are members of AFA inshore pollock cooperatives, Gulf of Alaska rockfish cooperatives, or BSAI Crab Rationalization Program cooperatives, and, since under the RFA the aggregate gross receipts of all participating members of the cooperative must meet the ''under $11 million'' threshold, the cooperatives are considered to be large entities within the meaning of the RFA. Thus, the estimate of 119 catcher vessels may be an overstatement of the number of small entities. Average gross revenues were $690,000 for small hook-and-line vessels, $1.25 million for small pot vessels, and $3.44 million for small trawl vessels. The average gross revenue for catcher/processor hook and line vessels was $2.90 million. The revenue data for other catcher/processor's data are not reported, due to confidentiality considerations.

The preferred alternative (Alternative 2) was compared to four other alternatives. Alternative 1 would have set TACs to generate fishing rates equal

to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the BSAI OY, in which case TACs would have been limited to the OY. Alternative 3 would have set TACs to produce fishing rates equal to the most recent 5-year average fishing rates. Alternative 4 would have set TACs equal to the lower limit of the BSAI OY range. Alternative 5, the ''no action'' alternative, would have set TACs equal to zero.

The TACs associated with Alternative 2, the preferred harvest strategy, are those adopted by the Council in October 2017. OFLs and ABCs for the species were based on recommendations prepared by the Council's BSAI Groundfish Plan Team in September 2017, and reviewed and modified by the Council's SSC in October 2017. The Council based its TAC recommendations on those of its AP, which were consistent with the SSC's OFL and ABC recommendations.

Alternative 1 selects harvest rates that would allow fishermen to harvest stocks at the level of ABCs, unless total harvests were constrained by the upper bound of the BSAI OY of two million mt. As shown in Table 1 of the preamble, the sum of ABCs in 2018 and 2019 would be about 4,214,648 mt, which falls above the upper bound of the OY range. Under Alternative 1, the sum of TACs is equal to the sum of ABCs. In this instance, Alternative 1 is consistent with the preferred alternative (Alternative 2), meets the objectives of that action, and has small entity impacts that are equivalent to small entity impacts of the preferred alternative. However, NMFS cannot set TACs equal to the sum of ABCs in the BSAI due to the constraining OY limit of 2.0 million mt, which Alternative 1 would exceed.

Alternative 3 selects harvest rates based on the most recent 5 years of harvest rates (for species in Tiers 1 through 3) or based on the most recent 5 years of harvests (for species in Tiers 4 through 6). This alternative is inconsistent with the objectives of this action (as reflected in Alternative 2, the Council's preferred harvest strategy) because it does not take account of the most recent biological information for this fishery. NMFS annually conducts at-sea stock surveys for different species, as well as statistical modeling, to estimate stock sizes and permissible harvest levels. Actual harvest rates or harvest amounts are a component of these estimates, but in and of themselves may not accurately portray stock sizes and conditions. Harvest rates are listed for each species category for each year in the SAFE report (see **ADDRESSES**).

Alternative 4 would lead to significantly lower harvests of all species and reduce TACs from the upper end of the OY range in the BSAI, to its lower end of 1.4 million mt. Overall, this would reduce 2018 TACs by about 30 percent, which would lead to significant reductions in harvests of species by small entities. While reductions of this size would alter the supply, and, therefore, would be associated with offsetting price increases, the size of these associated price increases is uncertain. While production declines in the BSAI would undoubtedly be associated with price increases in the BSAI, these increases would be constrained by production of substitutes, and are unlikely to completely offset revenue declines resulting from reductions in harvests of these species by small entities. Thus, this alternative action would have a detrimental impact on small entities.

Alternative 5, which sets all harvests equal to zero, would have a significant adverse impact on small entities and would be contrary to the requirement for achieving OY on a continuing basis, as mandated by the Magnuson-Stevens Act.

The proposed harvest specifications (Alternative 2) extend the current 2018 OFLs, ABCs, and TACs to 2018 and 2019, with the exceptions for decreases of Pacific cod OFL, ABC, and TAC in the BS and related increases in Atka mackerel, Pacific ocean perch, pollock, and rock sole TAC amounts. As noted in the IRFA, the Council may modify these OFLs, ABCs, and TACs in December 2017, when it reviews the November 2017 SAFE report from its groundfish Plan Team, and the reports of the SSC and AP at the December Council meeting. Because most of the TACs in the proposed 2018 and 2019 harvest specifications are unchanged from the 2018 harvest specification TACs, with the exception of modifications for TACs for five species, and because the sum of all TACs remains within the upper limit of OY for the BSAI of 2.0 million mt, NMFS does not expect adverse impacts on small entities. Also, NMFS does not expect any changes made by the Council in December 2017 to be large enough to have an impact on small entities.

This action does not modify recordkeeping or reporting requirements, or duplicate, overlap, or conflict with any Federal rules.

Adverse impacts on marine mammals resulting from fishing activities conducted under these harvest specifications are discussed in the Final EIS (see **ADDRESSES**), and in the 2017 SIR (*https://alaskafisheries.noaa.gov/sites/default/files/sir-2017-18.pdf*).

Authority: 16 U.S.C. 773 *et seq.;* 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: December 4, 2017.

Alan D. Risenhoover,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170816769–7769–01]

RIN 0648–XF633

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; 2018 and 2019 Harvest Specifications for Groundfish

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes 2018 and 2019 harvest specifications, apportionments, and Pacific halibut prohibited species catch limits for the groundfish fishery of the Gulf of Alaska (GOA). This action is necessary to establish harvest limits for groundfish during the 2018 and 2019 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska. The intended effect of this action is to conserve and manage the groundfish resources in the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Comments must be received by January 8, 2018.

ADDRESSES: Submit comments on this document, identified by NOAA–NMFS–2017–0107, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0107,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record, and NMFS will post the comments for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Final EIS), Record of Decision (ROD) for the Final EIS, Supplementary Information Report (SIR) to the Final EIS, and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *https://alaskafisheries.noaa.gov.* The final 2016 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the GOA, dated November 2016, is available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK 99501, phone 907–271–2809, or from the Council's Web site at *http://www.npfmc.org.* The draft 2017 SAFE report for the GOA will be available from the same source.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the GOA groundfish fisheries in the exclusive economic zone (EEZ) of the GOA under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The Council prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600, 679, and 680.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the total allowable catch (TAC) for each target species, the sum of which must be within the optimum yield (OY) range of 116,000 to 800,000 metric tons (mt) (§ 679.20(a)(1)(i)(B)). Section 679.20(c)(1) further requires NMFS to publish and solicit public comment on proposed annual TACs and apportionments thereof, Pacific halibut prohibited species catch (PSC) limits, and seasonal allowances of pollock and Pacific cod. The proposed harvest specifications in Tables 1 through 19 of this document satisfy these requirements. For 2018 and 2019, the sum of the proposed TAC amounts is 465,832 mt.

Under § 679.20(c)(3), NMFS will publish the final 2018 and 2019 harvest specifications after (1) considering comments received within the comment period (see **DATES**), (2) consulting with the Council at its December 2017 meeting, (3) considering information presented in the 2017 SIR that assesses the need to prepare a Supplemental EIS (see **ADDRESSES**), and (4) considering information presented in the final 2017 SAFE report prepared for the 2018 and 2019 groundfish fisheries.

Other Actions Potentially Affecting the 2018 and 2019 Harvest Specifications

Amendment 106: Reclassify Squid as an Ecosystem Species

In June 2017, the Council recommended for Secretarial review Amendment 106 to the FMP. Amendment 106 would reclassify squid in the FMP as an ''Ecosystem Component Species'' which is a category of non-target species that are not in need of conservation and management. Currently, NMFS annually sets an Overfishing Level (OFL), Acceptable Biological Catch (ABC), and TAC for squid in the GOA groundfish harvest specifications. Under Amendment 106, OFL, ABC, and TAC specifications would no longer be required. Proposed regulations to implement Amendment 106 would prohibit directed fishing for squid, require recordkeeping and reporting to monitor and report catch of squid species annually, and establish a squid maximum retainable amount when directed fishing for groundfish species at 20 percent to discourage retention, while allowing flexibility to prosecute groundfish fisheries. Further details will be available on publication of the proposed rule for Amendment 106. If Amendment 106 and its implementing regulations are approved by the Secretary of Commerce, this action is anticipated to be effective in 2019. Until Amendment 106 is effective, NMFS will continue to publish OFLs, ABCs, and TACs for squid in the GOA groundfish harvest specifications.

Proposed ABC and TAC Specifications

In October 2017, the Council, its Scientific and Statistical Committee (SSC), and its Advisory Panel (AP) reviewed the most recent biological and harvest information about the condition of groundfish stocks in the GOA. This information was compiled by the GOA Groundfish Plan Team (Plan Team) and presented in the final 2016 SAFE report for the GOA groundfish fisheries, dated November 2016 (see **ADDRESSES**). The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the GOA ecosystem and the economic condition of the groundfish fisheries off Alaska. From these data and analyses, the Plan Team estimates—and the SSC sets—an OFL and ABC for each species or species group. The amounts proposed for the 2018 and 2019 OFLs and ABCs are based on the 2016 SAFE report. The AP and Council recommended that the proposed 2018 and 2019 TACs be set equal to proposed ABCs for all species and species groups, with the exception of the species categories further discussed below. The proposed OFLs, ABCs, and TACs could be changed in the final harvest specifications depending on the most recent scientific information contained in the final 2017 SAFE report. The draft stock assessments that will comprise, in part, the 2017 SAFE report are available at *http://legistar2.granicus.com/npfmc/meetings/2017/9/962_A_Groundfish_Plan_Team_17-09-12_Meeting_Agenda.pdf.*

The Council recommends and NMFS proposes a reduction in the Pacific cod OFL, ABC, and TAC levels as compared to those levels implemented for Pacific cod in the 2017 and 2018 final GOA groundfish harvest specifications. The Council concurred with its SSC's recommendation to reduce the Pacific cod OFL and ABC, as well as its AP's recommendation for a corresponding reduction in the Pacific cod TAC. The reductions to the Pacific cod OFL, ABC, and TAC are the result of preliminary 2017 GOA bottom trawl survey data, as well as other data, that recently became available to stock assessment scientists.

Based on the results of the 2017 GOA bottom trawl survey estimates and preliminary modeling for the Pacific cod stock assessment, the Pacific cod biomass and abundance has decreased significantly since the 2015 GOA bottom trawl survey. This decrease is corroborated by additional data sets that appear to support the trawl survey results associated with a decrease in the

Pacific cod biomass. This information led to the recommended reduction in the proposed 2018 and 2019 Pacific cod OFL and ABC. The SSC opted to recommend a proposed 2018 OFL and ABC based on the average of the current 2018 OFL and ABC amounts and preliminary Tier 5 OFL and ABC amounts provided by the Pacific cod stock assessment author. This precautionary approach provides a strong indication of decreases in the OFL and ABC amounts for the final harvest specifications. However, this was a temporary approach used only for these proposed specifications, and Pacific cod remains in Tier 3a. The SSC also strongly noted that the final 2018 and 2019 harvest specifications for Pacific cod could be even lower than those recommended in the proposed 2018 and 2019 harvest specifications once the stock assessment process has been completed and reviewed by December 2017.The proposed Pacific cod OFL, ABC, and TAC amounts likely will further change once the Pacific cod stock assessment is finalized, reviewed by the Council's groundfish Plan Team in November, and then subsequently reviewed by the SSC, AP, and Council in December 2017. In addition, as discussed later in this preamble, decreases in Pacific cod OFL, ABC, and TAC could affect seasonal and sector apportionments of Pacific cod TAC and, potentially, apportionments of halibut PSC limit among fisheries.

In November 2017, the Plan Team will update the 2016 SAFE report to include new information collected during 2017, such as NMFS stock surveys, revised stock assessments, and catch data. The Plan Team will compile this information and produce the draft 2017 SAFE report for presentation at the December 2017 Council meeting. At that meeting, the Council will consider information in the draft 2017 SAFE report, recommendations from the November 2017 Plan Team meeting and December 2017 SSC and AP meetings, public testimony, and relevant written public comments in making its recommendations for the final 2018 and 2019 harvest specifications. Pursuant to § 679.20(a)(2) and (3), the Council could recommend adjusting the TACs if warranted on the biological condition of groundfish stocks or a variety of socioeconomic considerations, or if required in order to cause the sum to fall within the optimum yield range.

In previous years, the OFLs and ABCs that have had the most significant changes (relative to the amount of assessed tonnage of fish) from the proposed to the final harvest specifications have been for OFLs and ABCs that are based on the most recent NMFS stock surveys. These surveys provide updated estimates of stock biomass and spatial distribution, and changes to the models used for producing stock assessments. NMFS scientists presented updated and new survey results, changes to assessment models, and accompanying stock estimates at the September 2017 Plan Team meeting, and the SSC reviewed this information at the October 2017 Council meeting. The species with possible significant model changes are arrowtooth flounder, Pacific cod, Pacific ocean perch, pollock, and rex sole. Model changes can result in changes to OFLs, ABCs, and TACs.

In November 2017, the Plan Team will consider updated stock assessments for groundfish, which will be included in the draft 2017 SAFE report. If the draft 2017 SAFE report indicates that the stock biomass trend is increasing for a species, then the final 2018 and 2019 harvest specifications for that species may reflect an increase from the proposed harvest specifications. Conversely, if the draft 2017 SAFE report indicates that the stock biomass trend is decreasing for a species, then the final 2018 and 2019 harvest specifications may reflect a decrease from the proposed harvest specifications.

The proposed 2018 and 2019 OFLs, ABCs, and TACs are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised methods used to calculate stock biomass. The FMP specifies the formulas, or tiers, to be used to compute OFLs and ABCs. The formulas applicable to a particular stock or stock complex are determined by the level of reliable information available to the fisheries scientists. This information is categorized into a successive series of six tiers to define OFL and ABC amounts, with Tier 1 representing the highest level of information quality available and Tier 6 representing the lowest level of information quality available. The Plan Team used the FMP tier structure to calculate OFLs and ABCs for each groundfish species. The SSC adopted the proposed 2018 and 2019 OFLs and ABCs recommended by the Plan Team for all groundfish species, with the exception of Pacific cod. The Council adopted the SSC's OFL and ABC recommendations and the AP's TAC recommendations. These amounts have changed from the final 2018 harvest specifications published in the **Federal Register** on February 27, 2017 (82 FR 12032) as a result of the recommended decreases to the Pacific cod OFL, ABC, and TAC, as previously discussed.

Specification and Apportionment of TAC Amounts

The Council recommended proposed 2018 and 2019 TACs that are equal to proposed ABCs for all species and species groups, with the exception of the Western, Central, and West Yakutat pollock ABC, Pacific cod, shallow-water flatfish in the Western GOA, arrowtooth flounder, flathead sole in the Western and Central GOA, ''other rockfish'' in Southeast Outside (SEO) District, and Atka mackerel. The combined Western, Central, and West Yakutat pollock TAC is set to account for the State of Alaska's (State) guideline harvest levels (GHLs) for the State water pollock fishery. Similarly, the Pacific cod TACs are reduced from ABC levels to account for the State's GHLs for Pacific cod so that the ABCs are not exceeded. The shallow-water flatfish, arrowtooth flounder, and flathead sole TACs are set to allow for increased harvest opportunities for these target species while conserving the halibut PSC limit for use in other fisheries. The ''other rockfish'' TAC is set to reduce the potential amount of discards of the species in that complex. The Atka mackerel TAC is set to accommodate incidental catch amounts in other fisheries. These reductions are described below.

The proposed 2018 and 2019 Pacific cod TACs are set to accommodate the State's GHLs for Pacific cod in State waters in the Western and Central Regulatory Areas, as well as in Prince William Sound (PWS). The Plan Team, SSC, AP, and Council recommended that the sum of all State and Federal water Pacific cod removals from the GOA not exceed ABC recommendations. Therefore, the proposed 2018 and 2019 Pacific cod TACs are less than the proposed ABCs by the following amounts: (1) Western GOA, 6,770 mt; (2) Central GOA, 6,868 mt; and (3) Eastern GOA, 1,224 mt. These amounts reflect the sum of the State's 2018 and 2019 GHLs in these areas, which are 30 percent of the Western GOA proposed ABC, and 25 percent of the Eastern and Central GOA proposed ABCs.

The ABC for the pollock stock in the combined Western, Central, and West Yakutat Regulatory Areas (W/C/WYK) includes the amount for the GHL established by the State for the PWS pollock fishery. The Plan Team, SSC, AP, and Council recommended that the sum of all State and Federal water pollock removals from the GOA not exceed ABC recommendations. For 2018

and 2019, the SSC recommended and the Council approved the W/C/WYK pollock ABC, including the amount to account for the State's PWS GHL. At the November 2016 Plan Team meeting, State fisheries managers recommended setting the PWS GHL at 2.5 percent of the annual W/C/WYK pollock ABC. For 2018, this yields a PWS pollock GHL of 3,937 mt, a decrease from the 2017 PWS GHL of 5,094 mt. After accounting for PWS GHL, the 2018 and 2019 pollock ABC for the combined W/C/WYK areas is then apportioned between four statistical areas (Areas 610, 620, 630, and 640) as both ABCs and TACs, as described below and detailed in Table 1. The total ABCs and TACs for the four statistical areas, plus the State GHL, do not exceed the combined W/C/WYK ABC. The proposed W/C/WYK 2018 and 2019 pollock ABC is 157,496 mt, and the proposed TAC is 153,559 mt.

Apportionments of pollock to the W/C/WYK management areas are considered to be ''apportionments of annual catch limit (ACLs)'' rather than ''ABCs.'' This more accurately reflects that such apportionments address management, rather than biological or conservation, concerns. In addition, apportionments of the ACL in this manner allow NMFS to balance any transfer of TAC among Areas 610, 620, and 630 pursuant to § 679.20(a)(5)(iv)(B) to ensure that the area-wide ACL, ABC, and TAC are not exceeded.

NMFS' proposed apportionments of groundfish species are based on the distribution of biomass among the regulatory areas under which NMFS manages the species. Additional regulations govern the apportionment of pollock, Pacific cod, and sablefish. Additional detail on these apportionments are described below, and briefly summarized here.

NMFS proposes pollock TACs in the W/C/WYK and the SEO District of the GOA (see Table 1). NMFS also proposes seasonal apportionment of the annual pollock TAC in the Western and Central Regulatory Areas of the GOA between Statistical Areas 610, 620, and 630. These apportionments are divided equally among each of the following four seasons: The A season (January 20 through March 10), the B season (March 10 through May 31), the C season (August 25 through October 1), and the D season (October 1 through November 1) (§ 679.23(d)(2)(i) through (iv), and § 679.20(a)(5)(iv)(A) and (B)). Additional detail is provided below; Table 2 lists these amounts.

NMFS proposes Pacific cod TACs in the Western, Central, and Eastern GOA (see Table 1). NMFS also proposes seasonal apportionment of the Pacific cod TACs in the Western and Central Regulatory Areas. Sixty percent of the annual TAC is apportioned to the A season for hook-and-line, pot, and jig gear from January 1 through June 10, and for trawl gear from January 20 through June 10. Forty percent of the annual TAC is apportioned to the B season for jig gear from June 10 through December 31, for hook-and-line and pot gear from September 1 through December 31, and for trawl gear from September 1 through November 1 (§§ 679.23(d)(3) and 679.20(a)(12)). The Western and Central GOA Pacific cod TACs are allocated among various gear and operational sectors. Additional detail is provided below; Table 3 lists the amounts apportioned to each sector.

The Council's recommendation for sablefish area apportionments takes into account the prohibition on the use of trawl gear in the SEO District of the Eastern Regulatory Area (§ 679.7(b)(1)) and makes available 5 percent of the combined Eastern Regulatory Area TACs to trawl gear for use as incidental catch in other groundfish fisheries in the WYK District (§ 679.20(a)(4)(i)). Additional detail is provided below. Tables 4 and 5 list the proposed 2018 and 2019 allocations of the sablefish TAC to fixed gear and trawl gear in the GOA.

For 2018 and 2019, the Council recommends and NMFS proposes the OFLs, ABCs, and TACs listed in Table 1. The proposed ABCs reflect harvest amounts that are less than the specified overfishing levels. Table 1 lists the proposed 2018 and 2019 OFLs, ABCs, TACs, and area apportionments of groundfish in the GOA. These amounts are consistent with the biological condition of groundfish stocks as described in the 2016 SAFE report, and adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required OY range. The sum of the proposed TACs for all GOA groundfish is 465,832 mt for 2018 and 2019, which is within the OY range specified by the FMP. These proposed amounts and apportionments by area, season, and sector are subject to change pending consideration of the draft 2017 SAFE report and the Council's recommendations for the final 2018 and 2019 harvest specifications during its December 2017 meeting.

TABLE 1—PROPOSED 2018 AND 2019 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT, WESTERN, CENTRAL, AND EASTERN REGULATORY AREAS, AND IN THE WEST YAKUTAT, SOUTHEAST OUTSIDE, AND GULFWIDE DISTRICTS OF THE GULF OF ALASKA

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC [2]
Pollock [2]	Shumagin (610)	n/a	33,701	33,701
	Chirikof (620)	n/a	76,249	76,249
	Kodiak (630)	n/a	37,818	37,818
	WYK (640)	n/a	5,791	5,791
	W/C/WYK (subtotal)	182,204	157,496	153,559
	SEO (650)	13,226	9,920	9,920
	Total	195,430	167,416	163,479
Pacific cod [3]	W	n/a	22,565	15,796
	C	n/a	27,471	20,603
	E	n/a	4,894	3,671
	Total	67,486	54,930	40,069
Sablefish [4]	W	n/a	1,367	1,367
	C	n/a	4,574	4,574
	WYK	n/a	1,626	1,626
	SEO	n/a	2,640	2,640

TABLE 1—PROPOSED 2018 AND 2019 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT, WESTERN, CENTRAL, AND EASTERN REGULATORY AREAS, AND IN THE WEST YAKUTAT, SOUTHEAST OUTSIDE, AND GULFWIDE DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC [2]
	E (WYK and SEO) (subtotal)	n/a	4,266	4,266
	Total	12,045	10,207	10,207
Shallow-water flatfish [5]	W	n/a	21,042	13,250
	C	n/a	19,418	19,418
	WYK	n/a	3,206	3,206
	SEO	n/a	1,105	1,105
	Total	54,893	44,771	36,979
Deep-water flatfish [6]	W	n/a	257	257
	C	n/a	3,488	3,488
	WYK	n/a	3,047	3,047
	SEO	n/a	2,590	2,590
	Total	11,290	9,382	9,382
Rex sole	W	n/a	1,478	1,478
	C	n/a	4,995	4,995
	WYK	n/a	861	861
	SEO	n/a	1,087	1,087
	Total	11,004	8,421	8,421
Arrowtooth flounder	W	n/a	25,747	14,500
	C	n/a	98,895	75,000
	WYK	n/a	34,273	6,900
	SEO	n/a	11,595	6,900
	Total	196,635	170,510	103,300
Flathead sole	W	n/a	11,282	8,650
	C	n/a	20,677	15,400
	WYK	n/a	2,998	2,998
	SEO	n/a	872	872
	Total	43,872	35,829	27,920
Pacific ocean perch [7]	W	n/a	2,627	2,627
	C	n/a	16,347	16,347
	WYK	n/a	2,733	2,733
	W/C/WYK	25,252	21,707	21,707
	SEO	2,032	1,747	1,747
	Total	27,284	23,454	23,454
Northern rockfish [8]	W	n/a	400	400
	C	n/a	3,108	3,108
	E	n/a	4	.....
	Total	4,175	3,512	3,508
Shortraker rockfish [9]	W	n/a	38	38
	C	n/a	301	301
	E	n/a	947	947
	Total	1,715	1,286	1,286
Dusky rockfish [10]	W	n/a	146	146
	C	n/a	3,499	3,499
	WYK	n/a	232	232
	SEO	n/a	77	77
	Total	4,837	3,954	3,954
Rougheye and blackspotted rockfish [11]	W	n/a	104	104
	C	n/a	702	702
	E	n/a	512	512

TABLE 1—PROPOSED 2018 AND 2019 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT, WESTERN, CENTRAL, AND EASTERN REGULATORY AREAS, AND IN THE WEST YAKUTAT, SOUTHEAST OUTSIDE, AND GULFWIDE DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC [2]
	Total	1,583	1,318	1,318
Demersal shelf rockfish [12]	SEO	357	227	227
Thornyhead rockfish [13]	W	n/a	291	291
	C	n/a	988	988
	E	n/a	682	682
	Total	2,615	1,961	1,961
Other rockfish [14 15]	W/C combined	n/a	1,534	1,534
	WYK	n/a	574	574
	SEO	n/a	3,665	200
	Total	7,424	5,773	2,308
Atka mackerel	GW	6,200	4,700	3,000
Big skates [16]	W	n/a	908	908
	C	n/a	1,850	1,850
	E	n/a	1,056	1,056
	Total	5,086	3,814	3,814
Longnose skates [17]	W	n/a	61	61
	C	n/a	2,513	2,513
	E	n/a	632	632
	Total	4,274	3,206	3,206
Other skates [18]	GW	2,558	1,919	1,919
Sculpins	GW	7,338	5,591	5,591
Sharks	GW	6,020	4,514	4,514
Squids	GW	1,516	1,137	1,137
Octopuses	GW	6,504	4,878	4,878
Total		682,141	572,710	465,832

[1] Regulatory areas and districts are defined at § 679.2. (W=Western Gulf of Alaska; C=Central Gulf of Alaska; E=Eastern Gulf of Alaska; WYK=West Yakutat District; SEO=Southeast Outside District; GW=Gulf-wide).

[2] The total for the W/C/WYK Regulatory Areas pollock ABC is 157,496 mt. After deducting 2.5 percent (3,937 mt) of that ABC for the State's pollock GHL fishery, the remaining pollock ABC of 153,559 mt (for the W/C/WYK Regulatory Areas) is apportioned among four statistical areas (Areas 610, 620, 630, and 640). These apportionments are considered subarea ACLs, rather than ABCs, for specification and reapportionment purposes. The ACLs in Areas 610, 620, and 630 are further divided by season, as detailed in Table 2. In the West Yakutat (Area 640) and Southeast Outside (Area 650) Districts of the Eastern Regulatory Area, pollock is not divided into seasonal allowances.

[3] The annual Pacific cod TAC is apportioned 60 percent to the A season and 40 percent to the B season in the Western and Central Regulatory Areas of the GOA. Pacific cod TAC in the Eastern Regulatory Area is allocated 90 percent for processing by the inshore component and 10 percent for processing by the offshore component. Table 3 lists the proposed 2018 and 2019 Pacific cod seasonal apportionments.

[4] Sablefish is allocated to fixed and trawl gear in 2018 and trawl gear in 2019. Tables 4 and 5 list the proposed 2018 and 2019 allocations of sablefish TACs.

[5] "Shallow-water flatfish" means flatfish not including "deep-water flatfish," flathead sole, rex sole, or arrowtooth flounder.

[6] "Deep-water flatfish" means Dover sole, Greenland turbot, Kamchatka flounder, and deep-sea sole.

[7] "Pacific ocean perch" means *Sebastes alutus.*

[8] "Northern rockfish" means *Sebastes polyspinous.* For management purposes the 3 mt apportionment of ABC to the WYK District of the Eastern Gulf of Alaska has been included in the other rockfish species group.

[9] "Shortraker rockfish" means *Sebastes borealis.*

[10] "Dusky rockfish" means *Sebastes variabilis.*

[11] "Rougheye and blackspotted rockfish" means *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[12] "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

[13] "Thornyhead rockfish" means *Sebastes* species.

[14] "Other rockfish means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergray), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), *S. reedi* (yellowmouth), *S. entomelas* (widow), and *S. flavidus* (yellowtail). In the Eastern GOA only, "other rockfish" also includes northern rockfish (*S. polyspinous).*

[15] "Other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat District means all rockfish species included in the "other rockfish" and demersal shelf rockfish categories. The "other rockfish" species group in the SEO District only includes other rockfish.

[16] "Big skates" means *Raja binoculata.*

[17] "Longnose skates" means *Raja rhina.*

[18] "Other skates" means *Bathyraja and Raja spp.*

Proposed Apportionment of Reserves

Section 679.20(b)(2) requires NMFS to set aside 20 percent of each TAC for pollock, Pacific cod, flatfish, sculpins, sharks, squids, and octopuses in reserves for possible apportionment at a later date during the fishing year. In 2017, NMFS reapportioned all of the reserves in the final harvest specifications. For 2018 and 2019, NMFS proposes reapportionment of each of the reserves for pollock, Pacific cod, flatfish, sculpins, sharks, squids, and octopuses back into the original TAC from which the reserve was derived. NMFS expects, based on recent harvest patterns, that such reserves are not necessary and the entire TAC for each of these species will be caught. The TACs in Table 1 reflect this proposed reapportionment of reserve amounts for these species and species groups, *i.e.,* each proposed TAC for the above mentioned species categories contains the full TAC recommended by the Council.

Proposed Apportionments of Pollock TAC Among Seasons and Regulatory Areas, and Allocations for Processing by Inshore and Offshore Components

In the GOA, pollock is apportioned by season and area, and is further allocated for processing by inshore and offshore components. Pursuant to § 679.20(a)(5)(iv)(B), the annual pollock TAC specified for the Western and Central Regulatory Areas of the GOA is apportioned into four equal seasonal allowances of 25 percent. As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 through March 10, March 10 through May 31, August 25 through October 1, and October 1 through November 1, respectively.

Pollock TACs in the Western and Central Regulatory Areas of the GOA are apportioned among Statistical Areas 610, 620, and 630, pursuant to § 679.20(a)(5)(iv)(A). In the A and B seasons, the apportionments had historically, since 2000, been based on the proportional distribution of pollock biomass based on the four most recent NMFS winter surveys. In the C and D seasons, the apportionments were in proportion to the distribution of pollock biomass based on the four most recent NMFS summer surveys. For 2018 and 2019, the Council recommends, and NMFS proposes, following the methodology that was used for the 2017 and 2018 harvest specifications. This methodology averages the winter and summer distribution of pollock in the Central Regulatory Area for the A season instead of using the distribution based on only the winter surveys. The average is intended to reflect the best available information about migration patterns, distribution of pollock, and the performance of the fishery in the area during the A season. For the A season, the apportionment is based on the proposed adjusted estimate of the relative distribution of pollock biomass of approximately 5 percent, 72 percent, and 23 percent in Statistical Areas 610, 620, and 630, respectively. For the B season, the apportionment is based on the relative distribution of pollock biomass of approximately 5 percent, 82 percent, and 13 percent in Statistical Areas 610, 620, and 630, respectively. For the C and D seasons, the apportionment is based on the relative distribution of pollock biomass of approximately 41 percent, 26 percent, and 33 percent in Statistical Areas 610, 620, and 630, respectively. The pollock chapter of the 2016 SAFE report (see **ADDRESSES**) contains a comprehensive description of the apportionment process and reasons for the minor changes from past apportionments.

Within any fishing year, the amount by which a seasonal allowance is underharvested or overharvested may be added to, or subtracted from, subsequent seasonal allowances in a manner to be determined by the Regional Administrator (§ 679.20(a)(5)(iv)(B)). The rollover amount is limited to 20 percent of the seasonal TAC apportionment for the statistical area. Any unharvested pollock above the 20-percent limit could be further distributed to the subsequent season in other statistical areas, in proportion to the estimated biomass and in an amount no more than 20 percent of the seasonal TAC apportionment in those statistical areas (§ 679.20(a)(5)(iv)(B)). The proposed 2018 and 2019 pollock TACs in the WYK District of 5,791 mt and the SEO District of 9,920 mt are not allocated by season.

Section 679.20(a)(6)(i) requires the allocation of 100 percent of the pollock apportionments in all regulatory areas and all seasonal allowances to vessels catching pollock for processing by the inshore component after subtraction of pollock amounts projected by the Regional Administrator to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. Thus, the amount of pollock available for harvest by vessels harvesting pollock for processing by the offshore component is that amount that will be taken as incidental catch during directed fishing for groundfish species other than pollock, up to the maximum retainable amounts allowed under § 679.20(e) and (f). At this time, these incidental catch amounts of pollock are unknown and will be determined as fishing activity occurs during the fishing year by the offshore component.

Table 2 lists the proposed 2018 and 2019 seasonal biomass distribution of pollock in the Western and Central Regulatory Areas, area apportionments, and seasonal allowances. The amounts of pollock for processing by the inshore and offshore components are not shown. Section 679.20(a)(6)(i) requires the allocation of 100 percent of the pollock TAC in all regulatory areas and all seasonal allowances to vessels catching pollock for processing by the inshore component after subtraction of amounts projected by the Regional Administrator to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. Thus, the amount of pollock available for harvest by vessels harvesting pollock for processing by the offshore component is that amount that will be taken as incidental catch during directed fishing for groundfish species other than pollock, up to the maximum retainable amounts allowed by § 679.20(e) and (f). The incidental catch amounts of pollock are unknown at this time and will be determined during the 2018 fishing year during the course of fishing activities by the offshore component.

TABLE 2—PROPOSED 2018 AND 2019 DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GULF OF ALASKA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC [1]

[Values are rounded to the nearest metric ton]

Season [2]	Shumagin (area 610)		Chirikof (Area 620)		Kodiak (area 630)		Total [3]
A (Jan 20–Mar 10)	1,725	(4.67%)	26,704	(72.29%)	8,513	(23.04%)	36,942
B (Mar 10–May 31)	1,725	(4.67%)	30,469	(82.48%)	4,748	(12.85%)	36,942
C (Aug 25–Oct 1)	15,125	(40.94%)	9,538	(25.82%)	12,278	(33.24%)	36,942
D (Oct 1–Nov 1)	15,125	(40.94%)	9,538	(25.82%)	12,278	(33.24%)	36,942
Annual Total	33,701		76,249		37,818		147,768

[1] Area apportionments and seasonal allowances may not total precisely due to rounding.
[2] As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 through March 10, March 10 through May 31, August 25 through October 1, and October 1 through November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.
[3] The West Yakutat and Southeast Outside District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table.

Proposed Annual and Seasonal Apportionments of Pacific Cod TAC

As explained earlier in the section on ''Proposed ABC and TAC Specifications,'' the Council recommended reduced Pacific cod OFL, ABC, and TAC amounts as a result of preliminary data indicating a decrease in biomass. The proposed amounts could likely change, including a further decrease, once the 2017 Pacific cod stock assessment is finalized, reviewed by the Council's groundfish Plan Team in November, and then subsequently reviewed by the SSC, AP, and Council in December 2017. Reductions could impact seasonal and sector apportionments of Pacific cod TAC.

Pursuant to § 679.20(a)(12)(i), NMFS proposes allocations for the 2018 and 2019 Pacific cod TACs in the Western and Central Regulatory Areas of the GOA among gear and operational sectors. NMFS also proposes allocating the 2018 and 2019 Pacific cod TACs annually between the inshore and offshore components in the Eastern Regulatory Area of the GOA (§ 679.20(a)(6)(ii)). In the Central GOA, the Pacific cod TAC is apportioned seasonally first to vessels using jig gear, and then among catcher vessels (CVs) less than 50 feet in length overall using hook-and-line gear, CVs equal to or greater than 50 feet in length overall using hook-and-line gear, catcher/processors (C/Ps) using hook-and-line gear, CVs using trawl gear, C/Ps using trawl gear, and vessels using pot gear (§ 679.20(a)(12)(i)(B)). In the Western GOA, the Pacific cod TAC is apportioned seasonally first to vessels using jig gear, and then among CVs using hook-and-line gear, C/Ps using hook-and-line gear, CVs using trawl gear, C/Ps using trawl gear, and vessels using pot gear (§ 679.20(a)(12)(i)(A)). The overall seasonal apportionments in the Western and Central GOA are 60 percent of the annual TAC to the A season and 40 percent of the annual TAC to the B season. All of these apportionments proposed for 2018 and 2019 incorporate the proposed reduction to the 2018 and 2019 Pacific cod TAC that was recommended by the Council and discussed earlier in the preamble.

Under § 679.20(a)(12)(ii), any overage or underage of the Pacific cod allowance from the A season will be subtracted from, or added to, the subsequent B season allowance. In addition, any portion of the hook-and-line, trawl, pot, or jig sector allocations that is determined by NMFS as likely to go unharvested by a sector may be reallocated to other sectors for harvest during the remainder of the fishing year.

Pursuant to § 679.20(a)(12)(i)(A) and (B), a portion of the annual Pacific cod TACs in the Western and Central GOA will be allocated to vessels with a Federal fisheries permit that use jig gear before TAC is apportioned among other non-jig sectors. In accordance with the FMP, the annual jig sector allocations may increase to up to 6 percent of the annual Western and Central GOA Pacific cod TACs, depending on the annual performance of the jig sector (see Table 1 of Amendment 83 to the FMP for a detailed discussion of the jig sector allocation process (76 FR 74670, December 1, 2011). Jig sector allocation increases are established for a minimum of 2 years.

NMFS has evaluated the historical harvest performance of the jig sector in the Western and Central GOA, and is establishing the proposed 2018 and 2019 Pacific cod apportionments to this sector based on its historical harvest performance through 2016. For 2018 and 2019, NMFS proposes that the jig sector receive 2.5 percent of the annual Pacific cod TAC in the Western GOA. This includes a base allocation of 1.5 percent and an additional 1.0 percent because this sector harvested greater than 90 percent of its initial allocations in 2012 and 2014 in the Western GOA. NMFS also proposes that the jig sector receive 1.0 percent of the annual Pacific cod TAC in the Central GOA. This includes a base allocation of 1.0 percent and no additional performance increase. These historical Pacific cod jig allocations, catch, and percent allocation changes are listed in Figure 1.

FIGURE 1—SUMMARY OF WESTERN GOA AND CENTRAL GOA MANAGEMENT AREA PACIFIC COD CATCH BY JIG GEAR IN 2012 THROUGH 2016, AND CORRESPONDING PERCENT ALLOCATION CHANGES

Area	Year	Initial percent of TAC	Initial TAC allocation	Catch (mt)	Percent of initial allocation	>90% of initial allocation?	Change to percent allocation
WGOA	2012	1.5	315	322	102	Y	Increase 1.
	2013	2.5	530	273	52	N	None.
	2014	2.5	573	785	137	Y	Increase 1.
	2015	3.5	948	55	6	N	None.

FIGURE 1—SUMMARY OF WESTERN GOA AND CENTRAL GOA MANAGEMENT AREA PACIFIC COD CATCH BY JIG GEAR IN 2012 THROUGH 2016, AND CORRESPONDING PERCENT ALLOCATION CHANGES—Continued

Area	Year	Initial percent of TAC	Initial TAC allocation	Catch (mt)	Percent of initial allocation	>90% of initial allocation?	Change to percent allocation
	2016	3.5	992	52	5	N	Decrease 1.
CGOA	2012	1.0	427	400	94	Y	Increase 1.
	2013	2.0	740	202	27	N	None.
	2014	2.0	797	262	33	N	None.
	2015	1.0	460	355	77	N	Decrease 1.
	2016	1.0	370	267	72	N	None.

NMFS will re-evaluate the annual 2017 harvest performance of jig sector in the Western and Central Management areas when the 2017 fishing year is complete to determine whether to change the jig sector allocations proposed by this action in conjunction with the final 2018 and 2019 harvest specifications. The current catch through November 2017 by the Western GOA jig sector indicates that the Pacific cod allocation percentage to this sector would probably decrease by 1 percent in 2018 (from 2.5 percent to 1.5 percent). Also, the current catch by the Central GOA jig sector indicates that this sector's Pacific cod allocation percentage would not change in 2018, and would remain at 1 percent. The jig sector allocations for the Western and Central GOA are further apportioned between the A (60 percent) and B (40 percent) seasons (§ 679.20(a)(12)(i) and § 679.23(d)(3)(iii)).

Table 3 lists the seasonal apportionments and allocations of the proposed 2018 and 2019 Pacific cod TACs.

TABLE 3—PROPOSED 2018 AND 2019 SEASONAL APPORTIONMENTS AND ALLOCATIONS OF PACIFIC COD TOTAL ALLOWABLE CATCH AMOUNTS IN THE GOA; ALLOCATIONS IN THE WESTERN GOA AND CENTRAL GOA SECTORS, AND THE EASTERN GOA FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

[Values are rounded to the nearest metric ton]

Regulatory area and sector	Annual allocation (mt)	A season		B season	
		Sector percentage of annual non-jig TAC	Seasonal allowances (mt)	Sector percentage of annual non-jig TAC	Seasonal allowances (mt)
Western GOA:					
Jig (2.5% of TAC)	395	N/A	237	N/A	158
Hook-and-line CV	216	0.70	108	0.70	108
Hook-and-line C/P	3,049	10.90	1,679	8.90	1,371
Trawl CV	5,914	27.70	4,266	10.70	1,648
Trawl C/P	370	0.90	139	1.50	231
Pot CV and Pot C/P	5,852	19.80	3,049	18.20	2,803
Total	15,796	60.00	9,477	40.00	6,318
Central GOA:					
Jig (1.0% of TAC)	206	N/A	124	N/A	82
Hook-and-line <50 CV	2,978	9.32	1,900	5.29	1,078
Hook-and-line ≥50 CV	1,368	5.61	1,144	1.10	224
Hook-and-line C/P	1,041	4.11	838	1.00	203
Trawl CV [1]	8,482	21.13	4,311	20.45	4,171
Trawl C/P	856	2.00	409	2.19	448
Pot CV and Pot C/P	5,671	17.83	3,637	9.97	2,035
Total	20,603	60.00	12,362	40.00	8,241
Eastern GOA:		Inshore (90% of Annual TAC)		Offshore (10% of Annual TAC)	
	3,671	3,303		367	

[1] Trawl vessels participating in Rockfish Program cooperatives receive 3.81 percent, or 785 mt, of the annual Central GOA Pacific cod TAC. This apportionment percentage is specified in Table 28c to 50 CFR part 679. This apportionment is deducted from the Trawl CV B season allowance (see Table 8: Apportionments of Rockfish Secondary Species in the Central GOA).

Proposed Allocations of the Sablefish TACs Amounts to Vessels Using Fixed Gear and Trawl Gear

Sections 679.20(a)(4)(i) and (ii) require allocations of sablefish TACs for each of the regulatory areas and districts to fixed and trawl gear. In the Western and Central Regulatory Areas, 80 percent of each TAC is allocated to fixed gear, and 20 percent of each TAC is allocated to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is allocated to fixed gear and 5 percent is allocated to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used to support incidental catch of sablefish in directed fisheries for other target species (§ 679.20(a)(4)(i)).

In recognition of the prohibition against trawl gear in the SEO District of the Eastern Regulatory Area, the Council recommended and NMFS proposes the allocation of 5 percent of the combined Eastern Regulatory Area sablefish TAC to trawl gear in the WYK District, making the remainder of the WYK sablefish TAC available to vessels using fixed gear. NMFS proposes to allocate 100 percent of the sablefish TAC in the SEO District to vessels using fixed gear. This action results in a proposed 2018 allocation of 213 mt to trawl gear and 1,413 mt to fixed gear in the WYK District, a proposed 2018 allocation of 2,640 mt to fixed gear in the SEO District, and a 2019 allocation of 213 mt to trawl gear in the WYK District. Table 4 lists the allocations of the proposed 2018 sablefish TACs to fixed and trawl gear. Table 5 lists the allocations of the proposed 2019 sablefish TACs to trawl gear.

The Council recommended that the trawl sablefish TAC be established for 2 years so that retention of incidental catch of sablefish by trawl gear could commence in January in the second year of the groundfish harvest specifications. Tables 4 and 5 list the 2018 and 2019 trawl allocations, respectively.

The Council recommended that the fixed gear sablefish TAC be established annually to ensure that the sablefish IFQ fishery is conducted concurrently with the halibut IFQ fishery and is based on the most recent survey information. Since there is an annual assessment for sablefish and the final harvest specifications are expected to be published before the IFQ season begins (typically, in early March), the Council recommended that the fixed gear sablefish TAC be set annually, rather than for 2 years, so that the best available scientific information could be considered in establishing the sablefish ABCs and TACs. Accordingly, Table 4 lists the 2018 fixed gear allocations, and the 2019 fixed gear allocations will be in the proposed 2019 and 2020 harvest specifications.

With the exception of the trawl allocations that are provided to the Rockfish Program cooperatives (see Table 28c to 50 CFR part 679), directed fishing for sablefish with trawl gear is closed during the fishing year. Also, fishing for groundfish with trawl gear is prohibited prior to January 20. Therefore, it is not likely that the sablefish allocation to trawl gear would be reached before the effective date of the final 2018 and 2019 harvest specifications.

TABLE 4—PROPOSED 2018 SABLEFISH TOTAL ALLOWABLE CATCH (TAC) IN THE GULF OF ALASKA AND ALLOCATIONS TO FIXED AND TRAWL GEAR

[Values are rounded to the nearest metric ton]

Area/district	TAC	Fixed gear allocation	Trawl allocation
Western	1,367	1,094	273
Central [1]	4,574	3,659	915
West Yakutat [2]	1,626	1,413	213
Southeast Outside	2,640	2,640	0
Total	10,207	8,806	1,402

[1] The trawl allocation to the Central Regulatory Area is further reduced by the sablefish apportioned to the Rockfish Program cooperatives (471 mt). See Table 8: Apportionments of Rockfish Secondary Species in the Central GOA. This results in 444 mt being available for the non-Rockfish Program trawl fisheries.

[2] The proposed trawl allocation is based on allocating 5 percent of the combined Eastern Regulatory Area (West Yakutat and Southeast Outside Districts combined) sablefish TAC to trawl gear in the West Yakutat District.

TABLE 5—PROPOSED 2019 SABLEFISH TOTAL ALLOWABLE CATCH (TAC) IN THE GULF OF ALASKA AND ALLOCATION TO TRAWL GEAR [1]

[Values are rounded to the nearest metric ton.]

Area/district	TAC	Fixed gear allocation	Trawl allocation
Western	1,367	n/a	273
Central [2]	4,574	n/a	915
West Yakutat [3]	1,626	n/a	213
Southeast Outside	2,640	n/a	0
Total	10,207	n/a	1,402

[1] The Council recommended that harvest specifications for the fixed gear sablefish Individual Fishing Quota fisheries be limited to 1 year.

[2] The trawl allocation to the Central Regulatory Area is further reduced by the sablefish apportioned to the Rockfish Program cooperatives (471mt). See Table 8: Apportionments of Rockfish Secondary Species in the Central GOA. This results in 444 mt being available for the non-Rockfish Program trawl fisheries.

[3] The proposed trawl allocation is based on allocating 5 percent of the combined Eastern Regulatory Area (West Yakutat and Southeast Outside Districts combined) sablefish TAC to trawl gear in the West Yakutat District.

Proposed Apportionments to the Rockfish Program

These proposed 2018 and 2019 harvest specifications for the GOA include the fishery cooperative allocations and sideboard limitations established by the Rockfish Program. Program participants are primarily trawl CVs and trawl C/Ps, with limited participation by vessels using longline gear. The Rockfish Program assigns quota share and cooperative quota to participants for primary (Pacific ocean perch, northern rockfish, and dusky rockfish) and secondary species (Pacific cod, rougheye rockfish, sablefish, shortraker rockfish, and thornyhead rockfish), allows a participant holding a license limitation program (LLP) license with rockfish quota share to form a rockfish cooperative with other persons, and allows holders of C/P LLP licenses to opt out of the fishery. The Rockfish Program also has an entry level fishery for rockfish primary species for vessels using longline gear. Longline gear includes hook-and-line, jig, troll, and handline gear.

Under the Rockfish Program, rockfish primary species in the Central GOA are allocated to participants after deducting for incidental catch needs in other directed groundfish fisheries (§ 679.81(a)(2)). Participants in the Rockfish Program also receive a portion of the Central GOA TAC of specific secondary species. Besides groundfish species, the Rockfish Program allocates a portion of the halibut PSC limit (191 mt) from the third season deep-water species fishery allowance for the GOA trawl fisheries to Rockfish Program participants (§ 679.81(d) and Table 28d to 50 CFR part 679). Rockfish Program sideboards and halibut PSC limits are discussed later in this rule.

Also, the Rockfish Program establishes sideboard limits to restrict the ability of harvesters that operate under the Rockfish Program to increase their participation in other, non-Rockfish Program fisheries. These restrictions are discussed in a subsequent section titled ''Rockfish Program Groundfish Sideboard and Halibut PSC Limitations.''

Section 679.81(a)(2)(ii) and Table 28e to 50 CFR part 679 requires allocations of 5 mt of Pacific ocean perch, 5 mt of northern rockfish, and 50 mt of dusky rockfish to the entry level longline fishery in 2018 and 2019. The allocation for the entry level longline fishery may increase incrementally each year if the catch exceeds 90 percent of the allocation of a species. The incremental increase in the allocation would continue each year until it is the maximum percentage of the TAC for that species. In 2017, the allocation for dusky rockfish increased by 20 mt, from 30 mt, to 50 mt. In 2017, the catch for all three primary species did not exceed 90 percent of any allocated rockfish species. Therefore, NMFS is not proposing any increases to the entry level longline fishery 2018 and 2019 allocations in the Central GOA. The remainder of the TACs for the rockfish primary species would be allocated to the CV and C/P cooperatives. Table 6 lists the allocations of the proposed 2018 and 2019 TACs for each rockfish primary species to the entry level longline fishery, the incremental increase for future years, and the maximum percentage of the TAC for the entry level longline fishery.

TABLE 6—PROPOSED 2018 AND 2019 ALLOCATIONS OF ROCKFISH PRIMARY SPECIES TO THE ENTRY LEVEL LONGLINE FISHERY IN THE CENTRAL GULF OF ALASKA

Rockfish primary species	2018 and 2019 allocations	Incremental increase in 2019 if ≥90 percent of 2018 allocation is harvested	Up to maximum percent of each TAC of:
Pacific ocean perch	5 metric tons	5 metric tons	1
Northern rockfish	5 metric tons	5 metric tons	2
Dusky rockfish	50 metric tons	20 metric tons	5

Section 679.81 requires allocations of rockfish primary species among various sectors of the Rockfish Program. Table 7 lists the proposed 2018 and 2019 allocations of rockfish primary species in the Central GOA to the entry level longline fishery, and rockfish CV and C/P cooperatives in the Rockfish Program. NMFS also proposes setting aside incidental catch amounts (ICAs) for other directed fisheries in the Central GOA of 3,500 mt of Pacific ocean perch, 300 mt of northern rockfish, and 250 mt of dusky rockfish. These amounts are based on recent average incidental catches in the Central GOA by other groundfish fisheries.

Allocations among vessels belonging to CV or C/P cooperatives are not included in these proposed harvest specifications. Rockfish Program applications for CV cooperatives and C/P cooperatives are not due to NMFS until March 1 of each calendar year; therefore, NMFS cannot calculate 2018 and 2019 allocations in conjunction with these proposed harvest specifications. NMFS will post these allocations on the Alaska Region Web site at *http://alaskafisheries.noaa.gov/fisheries/central-goa-rockfish-program* when they become available after March 1.

TABLE 7—PROPOSED 2018 AND 2019 ALLOCATIONS OF ROCKFISH PRIMARY SPECIES IN THE CENTRAL GULF OF ALASKA TO THE ENTRY LEVEL LONGLINE FISHERY AND ROCKFISH COOPERATIVES IN THE ROCKFISH PROGRAM

[Values are rounded to the nearest metric ton]

Rockfish primary species	TAC	Incidental catch allowance (ICA)	TAC minus ICA	Allocation to the entry level longline [1] fishery	Allocation to the Rockfish Cooperatives [2]
Pacific ocean perch	16,347	3,500	12,847	5	12,842
Northern rockfish	3,108	300	2,808	5	2,803
Dusky rockfish	3,499	250	3,249	50	3,199

TABLE 7—PROPOSED 2018 AND 2019 ALLOCATIONS OF ROCKFISH PRIMARY SPECIES IN THE CENTRAL GULF OF ALASKA TO THE ENTRY LEVEL LONGLINE FISHERY AND ROCKFISH COOPERATIVES IN THE ROCKFISH PROGRAM—Continued

[Values are rounded to the nearest metric ton]

Rockfish primary species	TAC	Incidental catch allowance (ICA)	TAC minus ICA	Allocation to the entry level longline [1] fishery	Allocation to the Rockfish Cooperatives [2]
Total	22,954	4,050	18,904	60	18,844

[1] Longline gear includes hook-and-line, jig, troll, and handline gear (§ 679.2).
[2] Rockfish cooperatives include vessels in CV and C/P cooperatives (§ 679.81).

Section 679.81(c) and Table 28c to 50 CFR part 679 requires allocations of rockfish secondary species to CV and C/P cooperatives in the Central GOA. CV cooperatives receive allocations of Pacific cod, sablefish from the trawl gear allocation, and thornyhead rockfish. C/P cooperatives receive allocations of sablefish from the trawl allocation, rougheye rockfish, shortraker rockfish, and thornyhead rockfish. Table 8 lists the apportionments of the proposed 2018 and 2019 TACs of rockfish secondary species in the Central GOA to CV and C/P cooperatives.

TABLE 8—PROPOSED 2018 AND 2019 APPORTIONMENTS OF ROCKFISH SECONDARY SPECIES IN THE CENTRAL GOA TO CATCHER VESSEL AND CATCHER/PROCESSOR COOPERATIVES

[Values are in metric tons]

Rockfish secondary species	Central GOA annual TAC	Catcher Vessel cooperatives		Catcher/Processor cooperatives	
		Percentage of TAC	Apportionment (mt)	Percentage of TAC	Apportionment (mt)
Pacific cod	20,603	3.81	785	0.0	0.0
Sablefish	4,574	6.78	310	3.51	161
Shortraker rockfish	301	0.0	0	40.00	120
Rougheye rockfish	702	0.0	0	58.87	413
Thornyhead rockfish	988	7.84	77	26.50	262

Halibut PSC Limits

Section 679.21(d) establishes annual halibut PSC limit apportionments to trawl and hook-and-line gear, and authorizes the establishment of apportionments for pot gear. In October 2017, the Council recommended halibut PSC limits of 1,706 mt for trawl gear, 257 mt for hook-and-line gear, and 9 mt for the demersal shelf rockfish (DSR) fishery in the SEO District.

The DSR fishery in the SEO District is defined at § 679.21(d)(2)(ii)(A). This fishery is apportioned 9 mt of the halibut PSC limit in recognition of its small-scale harvests of groundfish. NMFS estimates low halibut bycatch in the DSR fishery because (1) the duration of the DSR fisheries and the gear soak times are short, (2) the DSR fishery occurs in the winter when there is less overlap in the distribution of DSR and halibut, and (3) the directed commercial DSR fishery has a low DSR TAC. The Alaska Department of Fish and Game sets the commercial GHL for the DSR fishery after deducting (1) estimates of DSR incidental catch in all fisheries (including halibut and subsistence); and (2) the allocation to the DSR sport fish fishery. Of the 227 mt TAC for DSR in 2017, 77 mt were available for the DSR commercial directed fishery, of which 36 mt were harvested.

The FMP authorizes the Council to exempt specific gear from the halibut PSC limits. NMFS, after consultation with the Council, proposes to exempt pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from the non-trawl halibut PSC limit for 2018 and 2019. The Council recommended, and NMFS is proposing, these exemptions because (1) pot gear fisheries have low annual halibut bycatch mortality; (2) IFQ program regulations prohibit discard of halibut if any halibut IFQ permit holder on board a CV holds unused halibut IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating (§ 679.7(f)(11)); 3) some sablefish IFQ permit holders hold halibut IFQ permits and are therefore required to retain the halibut they catch while fishing sablefish IFQ; and 4) NMFS estimates negligible halibut mortality for the jig gear fisheries. NMFS estimates halibut mortality is negligible in the jig gear fisheries given the small amount of groundfish harvested by jig gear, the selective nature of jig gear, and the high survival rates of halibut caught and released with jig gear.

The best available information on estimated halibut bycatch consists of data collected by fisheries observers during 2017. The calculated halibut bycatch mortality through October 12, 2017, is 1,018 mt for trawl gear and 119 mt for hook-and-line gear for a total halibut mortality of 1,137 mt. This halibut mortality was calculated using groundfish and halibut catch data from the NMFS Alaska Region's catch accounting system. This accounting system contains historical and recent catch information compiled from each Alaska groundfish fishery.

Section 679.21(d)(4)(i) and (ii) authorizes NMFS to seasonally apportion the halibut PSC limits after consultation with the Council. The FMP and regulations require that the Council and NMFS consider the following information in seasonally apportioning halibut PSC limits: (1) Seasonal distribution of halibut, (2) seasonal distribution of target groundfish species relative to halibut distribution, (3) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catch of target groundfish species, (4) expected bycatch rates on a seasonal basis, (5) expected changes in directed groundfish fishing seasons, (6) expected actual start of fishing effort, and (7) economic effects of establishing seasonal halibut allocations on segments of the target

groundfish industry. Based on public comment and the information presented in the final 2017 SAFE report, the Council may recommend or NMFS may make changes to the seasonal, gear-type, or fishery category apportionments of halibut PSC limits for the final 2018 and 2019 harvest specifications.

The final 2017 and 2018 harvest specifications (82 FR 12032, February 27, 2017) summarized the Council's and NMFS' findings with respect to halibut PSC for each of these FMP considerations. The Council's and NMFS' findings for 2018 are unchanged from 2017. Table 9 lists the proposed 2018 and 2019 Pacific halibut PSC limits, allowances, and apportionments. The halibut PSC limits in these tables reflect the halibut PSC limits set forth at § 679.21(d)(2) and § 679.21(d)(3). Sections 679.21(d)(4)(iii) and (iv) specify that any underages or overages of a seasonal apportionment of a halibut PSC limit will be added to or deducted from the next respective seasonal apportionment within the fishing year.

TABLE 9—PROPOSED 2018 AND 2019 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS

[Values are in metric tons]

Trawl gear			Hook-and-line gear [1]				
			Other than DSR			DSR	
Season	Percent	Amount	Season	Percent	Amount	Season	Amount
January 20–April 1	27.5	469	January 1–June 10	86	221	January 1–December 31	9
April 1–July 1	20	341	June 10–September 1	2	5		
July 1–September 1	30	512	September 1–December 31.	12	31		
September 1–October 1	7.5	128					
October 1–December 31	15	256					
Total		1,706			257		9

[1] The Pacific halibut prohibited species catch (PSC) limit for hook-and-line gear is allocated to the demersal shelf rockfish (DSR) fishery and fisheries other than DSR. The hook-and-line sablefish fishery is exempt from halibut PSC limits, as are pot and jig gear for all groundfish fisheries.

Section 679.21(d)(3)(ii) authorizes further apportionment of the trawl halibut PSC limit as bycatch allowances to trawl fishery categories listed in § 679.21(d)(3)(iii). The annual apportionments are based on each category's proportional share of the anticipated halibut bycatch mortality during a fishing year and optimization of the total amount of groundfish harvest under the halibut PSC limit. The fishery categories for the trawl halibut PSC limits are (1) a deep-water species fishery, composed of sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder; and (2) a shallow-water species fishery, composed of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and ''other species'' (sculpins, sharks, squids, and octopuses) (§ 679.21(d)(3)(iii)). Halibut mortality incurred while directed fishing for skates with trawl gear accrues towards the shallow-water fishery halibut PSC limit (69 FR 26320, May 12, 2004).

As discussed previously in this preamble, the proposed Pacific cod TAC recommended by the Council is substantially less than the 2018 TAC published in the final 2017 and 2018 harvest specifications (82 FR 12032, February 27, 2017). If the proposed TAC or a lower TAC is adopted as the final TAC for 2018 and 2019, this reduced TAC could result in the Council adjusting the apportionment of halibut PSC limits between the shallow-water and deep-water species fisheries to reflect the potential for decreased effort in the shallow-water fisheries in 2018 and 2019 due the decrease in the Pacific cod TAC. The potential for decreased effort in the shallow-water species fishery could allow the deep-water species fishery to receive additional apportionments of the trawl halibut PSC limit. This adjustment could be made during the final harvest specifications process, pending any public comment, Council discussion, and Council recommendations for a change during the December 2017 Council meeting.

NMFS will combine available trawl halibut PSC limit apportionments in part of the second season deep-water and shallow-water fisheries for use in either fishery from May 15 through June 30 (§ 679.21(d)(4)(iii)(D)). This is intended to maintain groundfish harvest while minimizing halibut bycatch by these sectors to the extent practicable. This provides the deep-water and shallow-water trawl fisheries additional flexibility and the incentive to participate in fisheries at times of the year that may have lower halibut PSC rates relative to other times of the year.

Table 10 lists the proposed 2018 and 2019 seasonal apportionments of trawl halibut PSC limits between the trawl gear deep-water and the shallow-water species fisheries.

Table 28d to 50 CFR part 679 specifies the amount of the trawl halibut PSC limit that is assigned to the CV and C/P sectors that are participating in the Central GOA Rockfish Program. This includes 117 mt of halibut PSC limit to the CV sector and 74 mt of halibut PSC limit to the C/P sector. These amounts are allocated from the trawl deep-water species fishery's halibut PSC third seasonal apportionment.

Section 679.21(d)(4)(iii)(B) limits the amount of the halibut PSC limit allocated to Rockfish Program participants that could be re-apportioned to the general GOA trawl fisheries to no more than 55 percent of the unused annual halibut PSC apportioned to Rockfish Program participants. The remainder of the unused Rockfish Program halibut PSC limit is unavailable for use by any person for the remainder of the fishing year (§ 679.21(d)(4)(iii)(C)).

TABLE 10—PROPOSED 2018 AND 2019 SEASONAL APPORTIONMENTS OF THE PACIFIC HALIBUT PSC LIMIT APPORTIONED BETWEEN THE TRAWL GEAR SHALLOW-WATER AND DEEP-WATER SPECIES FISHERIES

[Values are in metric tons]

Season	Shallow-water	Deep-water [1]	Total
January 20–April 1	384	85	469
April 1–July 1	85	256	341
July 1–September 1	171	341	512
September 1–October 1	128	Any remainder	128
Subtotal, January 20–October 1	768	682	1,450
October 1–December 31 [2]			256
Total			1,706

[1] Vessels participating in cooperatives in the Rockfish Program will receive 191 mt of the third season (July 1 through September 1) deep-water species fishery halibut PSC apportionment.

[2] There is no apportionment between trawl shallow-water and deep-water species fisheries during the fifth season (October 1 through December 31).

Section 679.21(d)(2) requires that the ''other hook-and-line fishery'' halibut PSC limit apportionment to vessels using hook-and-line gear must be divided between CVs and C/Ps. NMFS must calculate the halibut PSC limit apportionments for the entire GOA to hook-and-line CVs and C/Ps in accordance with § 679.21(d)(2)(iii) in conjunction with these harvest specifications. A comprehensive description and example of the calculations necessary to apportion the ''other hook-and-line fishery'' halibut PSC limit between the hook-and-line CV and C/P sectors were included in the proposed rule to implement Amendment 83 to the FMP (76 FR 44700, July 26, 2011) and are not repeated here.

For 2018 and 2019, NMFS proposes annual halibut PSC limit apportionments of 129 mt and 128 mt to the hook-and-line CV and hook-and-line C/P sectors, respectively. The 2018 and 2019 annual halibut PSC limits are divided into three seasonal apportionments, using seasonal percentages of 86 percent, 2 percent, and 12 percent. Table 11 lists the proposed 2018 and 2019 annual halibut PSC limits and seasonal apportionments between the hook-and-line CV and hook-and-line C/P sectors in the GOA.

No later than November 1 year, any halibut PSC limit allocated under § 679.21(d)(2)(ii)(B) not projected by the Regional Administrator to be used by one of the hook-and-line sectors during the remainder of the fishing year will be made available to the other sector. NMFS calculates the projected unused amount of halibut PSC limit by either the CV hook-and-line or the C/P hook-and-line sectors of the ''other hook-and-line fishery'' for the remainder of the year. The projected unused amount of halibut PSC limit is made available to the other hook-and-line sector for the remainder of that fishing year if NMFS determines that an additional amount of halibut PSC limit is necessary for that sector to continue its directed fishing operations (§ 679.21(d)(2)(iii)(C)).

TABLE 11—PROPOSED 2018 AND 2019 APPORTIONMENTS OF THE ''OTHER HOOK-AND-LINE FISHERIES'' HALIBUT PSC ALLOWANCE BETWEEN THE HOOK-AND-LINE GEAR CATCHER VESSEL AND CATCHER/PROCESSOR SECTORS

[Values are in metric tons]

''Other than DSR'' allowance	Hook-and-line sector	Sector annual amount	Season	Seasonal percentage	Sector seasonal amount
257	Catcher Vessel	129	January 1–June 10	86	111
			June 10–September 1	2	3
			September 1–December 31	12	15
	Catcher/Processor	128	January 1—June 10	86	110
			June 10–September 1	2	3
			September 1–December 31	12	15

Halibut Discard Mortality Rates

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut incidental catch rates, halibut discard mortality rates (DMRs), and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. Halibut incidental catch rates are based on observers' estimates of halibut incidental catch in the groundfish fishery. DMRs are estimates of the proportion of incidentally caught halibut that do not survive after being returned to the sea. The cumulative halibut mortality that accrues to a particular halibut PSC limit is the product of a DMR multiplied by the estimated halibut PSC. DMRs are estimated using the best scientific information available in conjunction with the annual GOA stock assessment process. The DMR methodology and findings are included as an appendix to the annual GOA groundfish SAFE report.

In 2016, the DMR estimation methodology underwent revisions per the Council's directive. An interagency halibut working group (International Pacific Halibut Commission, Council, and NMFS staff) developed improved estimation methods that have undergone review by the Plan Team, SSC, and the Council. A summary of the revised methodology is contained in the GOA proposed 2017 and 2018 harvest specifications (81 FR 87881, December 6, 2016), and the comprehensive discussion of the working group's

statistical methodology is available from the Council (see **ADDRESSES**). The DMR working group's revised methodology is intended to improve estimation accuracy, as well as transparency and transferability in the methodology used for calculating DMRs. The working group will continue to consider improvements to the methodology used to calculate halibut mortality, including potential changes to the reference period (the period of data used for calculating the DMRs). Future DMRs may change based on additional years of observer sampling, which could provide more recent and accurate data and which could improve the accuracy of estimation and progress on methodology. The new methodology will continue to ensure that NMFS is using DMRs that more accurately reflect halibut mortality, which will inform the different sectors of their estimated halibut mortality and allow specific sectors to respond with methods that could reduce mortality and, eventually, the DMR for that sector.

At the December 2016 meeting, the SSC, AP, and Council concurred with the revised DMR estimation methodology, and NMFS adopted the DMRs calculated under the revised methodology for the 2017 and 2018 harvest specifications. In October 2017, the Council recommended adopting the halibut DMRs derived from the 2016 process for the proposed 2018 and 2019 DMRs. The proposed 2018 and 2019 DMRs maintain the 2016 process using an updated 3-year reference period of 2014 through 2016. The proposed DMR for catcher vessels using hook-and-line gear increased to 17 percent from 12 percent, and the proposed DMR for trawl catcher vessels operating in the Rockfish Program decreased to 62 percent from 67 percent. Other sectors had minor increases of 3 percent or less. Table 12 lists the proposed 2018 and 2019 DMRs.

TABLE 12—PROPOSED 2018 AND 2019 HALIBUT DISCARD MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA

[Values are percent of halibut assumed to be dead]

Gear	Sector	Groundfish fishery	Halibut discard mortality rate (percent)
Pelagic trawl	Catcher vessel	All	100
	Catcher/processor	All	100
Non-pelagic trawl	Catcher vessel	Rockfish Program	62
	Catcher vessel	All others	67
	Mothership and catcher/processor	All	84
Hook-and-line	Catcher/processor	All	10
	Catcher vessel	All	17
Pot	Catcher vessel and catcher/processor	All	7

Chinook Salmon Prohibited Species Catch Limit

Amendment 93 to the FMP (77 FR 42629, July 20, 2012) established separate Chinook salmon PSC limits in the Western and Central GOA in the directed pollock trawl fishery. These limits require NMFS to close the pollock directed fishery in the Western and Central regulatory areas of the GOA if the applicable Chinook salmon PSC limit is reached (§ 679.21(h)(8)). The annual Chinook salmon PSC limits in the pollock directed fishery of 6,684 salmon in the Western GOA and 18,316 salmon in the Central GOA are set in § 679.21(h)(2)(i) and (ii).

Amendment 97 to the FMP (79 FR 71350, December 2, 2014) established an initial annual PSC limit of 7,500 Chinook salmon for the non-pollock groundfish trawl fisheries in the Western and Central GOA. This limit is apportioned among three sectors: 3,600 Chinook salmon to trawl C/Ps; 1,200 Chinook salmon to trawl CVs participating in the Rockfish Program; and 2,700 Chinook salmon to trawl CVs not participating in the Rockfish Program (§ 679.21(h)(4)). NMFS will monitor the Chinook salmon PSC in the non-pollock GOA groundfish fisheries and close an applicable sector if it reaches its Chinook salmon PSC limit.

The Chinook salmon PSC limit for two sectors, trawl C/Ps and trawl CVs not participating in the Rockfish Program, may be increased in subsequent years based on the performance of these two sectors and their ability to minimize their use of their respective Chinook salmon PSC limits. If either or both of these two sectors limit its use of Chinook salmon PSC to a certain threshold amount in 2017 (3,120 for trawl C/Ps and 2,340 for trawl CVs), that sector will receive an incremental increase to its 2018 Chinook salmon PSC limit (4,080 for trawl C/Ps and 3,060 for trawl CVs) (§ 679.21(h)(4)). NMFS will evaluate the annual Chinook salmon PSC by trawl C/Ps and non-Rockfish Program CVs when the 2017 fishing year is complete to determine whether to increase the Chinook salmon PSC limits for these two sectors. Based on preliminary 2017 Chinook salmon PSC data, the trawl C/P sector and the non-Rockfish Program CV sector may receive an incremental increase of Chinook salmon PSC limit in 2018. This evaluation will be completed in conjunction with the final 2018 and 2019 harvest specifications.

American Fisheries Act (AFA) Catcher/Processor and Catcher Vessel Groundfish Sideboard Limits

Section 679.64 establishes groundfish harvesting and processing sideboard limits on AFA C/Ps and CVs in the GOA. These sideboard limits are necessary to protect the interests of fishermen and processors who do not directly benefit from the AFA from those fishermen and processors who receive exclusive harvesting and processing privileges under the AFA. Section 679.7(k)(1)(ii) prohibits listed AFA C/Ps from harvesting any species of fish in the GOA. Additionally, § 679.7(k)(1)(iv) prohibits listed AFA C/Ps from processing any pollock harvested in a directed pollock fishery in the GOA and any groundfish harvested in Statistical Area 630 of the GOA.

AFA CVs that are less than 125 ft (38.1 meters) length overall, have annual landings of pollock in the Bering Sea and Aleutian Islands of less than 5,100 mt, and have made at least 40 landings of GOA groundfish from 1995 through 1997 are exempt from GOA CV groundfish sideboard limits under § 679.64(b)(2)(ii). Sideboard limits for non-exempt AFA CVs in the GOA are based on their traditional harvest levels

of TAC in groundfish fisheries covered by the FMP. Section 679.64(b)(3)(iv) establishes for CVs the groundfish sideboard limitations in the GOA based on the retained catch of non-exempt AFA CVs of each sideboard species from 1995 through 1997 divided by the TAC for that species over the same period.

Table 13 lists the proposed 2018 and 2019 groundfish sideboard limits for non-exempt AFA CVs. NMFS will deduct all targeted or incidental catch of sideboard species made by non-exempt AFA CVs from the sideboard limits listed in Table 13.

TABLE 13—PROPOSED 2018 AND 2019 GOA NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL (CV) GROUNDFISH SIDEBOARD LIMITS

[Values are rounded to the nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	Proposed 2018 and 2019 TACs [3]	Proposed 2018 and 2019 non-exempt AFA CV sideboard limit
Pollock	A Season January 20–March 10.	Shumagin (610)	0.6047	1,725	1,043
		Chirikof (620)	0.1167	26,704	3,116
		Kodiak (630)	0.2028	8,513	1,726
	B Season March 10–May 31	Shumagin (610)	0.6047	1,725	1,043
		Chirikof (620)	0.1167	30,469	3,556
		Kodiak (630)	0.2028	4,748	963
	C Season August 25–October 1.	Shumagin (610)	0.6047	15,125	9,146
		Chirikof (620)	0.1167	9,538	1,113
		Kodiak (630)	0.2028	12,278	2,490
	D Season October 1–November 1.	Shumagin (610)	0.6047	15,125	9,146
		Chirikof (620)	0.1167	9,538	1,113
		Kodiak (630)	0.2028	12,278	2,490
	Annual	WYK (640)	0.3495	5,791	2,024
		SEO (650)	0.3495	9,920	3,467
Pacific cod	A Season [1] January 1–June 10.	W	0.1331	9,477	1,261
		C	0.0692	12,362	855
	B Season [2]	W	0.1331	6,318	841
	September 1–December 31	C	0.0692	8,241	570
	Annual	E inshore	0.0079	3,303	26
		E offshore	0.0078	367	3
Sablefish	Annual, trawl gear	W	0.0000	273	0
		C	0.0642	915	59
		E	0.0433	213	9
Flatfish, shallow-water	Annual	W	0.0156	13,250	207
		C	0.0587	19,418	1,140
		E	0.0126	4,311	54
Flatfish, deep-water	Annual	W	0.0000	257	0
		C	0.0647	3,488	226
		E	0.0128	5,637	72
Rex sole	Annual	W	0.0007	1,478	1
		C	0.0384	4,995	192
		E	0.0029	1,948	6
Arrowtooth flounder	Annual	W	0.0021	14,500	30
		C	0.0280	75,000	2,100
		E	0.0002	13,800	3
Flathead sole	Annual	W	0.0036	8,650	31
		C	0.0213	15,400	328
		E	0.0009	3,870	3
Pacific ocean perch	Annual	W	0.0023	2,627	6
		C	0.0748	16,347	1,223
		E	0.0466	4,480	209
Northern rockfish	Annual	W	0.0003	400	0
		C	0.0277	3,108	86
Shortraker rockfish	Annual	W	0.0000	38	0
		C	0.0218	301	7
		E	0.0110	947	10
Dusky Rockfish	Annual	W	0.0001	146	0
		C	0.0000	3,499	0
		E	0.0067	309	2
Rougheye rockfish	Annual	W	0.0000	104	0
		C	0.0237	702	17
		E	0.0124	512	6
Demersal shelf rockfish	Annual	SEO	0.0020	227	0
Thornyhead rockfish	Annual	W	0.0280	291	8
		C	0.0280	988	28
		E	0.0280	682	19

TABLE 13—PROPOSED 2018 AND 2019 GOA NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL (CV) GROUNDFISH SIDEBOARD LIMITS—Continued

[Values are rounded to the nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	Proposed 2018 and 2019 TACs [3]	Proposed 2018 and 2019 non-exempt AFA CV sideboard limit
Other Rockfish	Annual	W/C	0.1699	1,534	261
		E	0.0000	774	0
Atka mackerel	Annual	Gulfwide	0.0309	3,000	93
Big skates	Annual	W	0.0063	908	6
		C	0.0063	1,850	12
		E	0.0063	1,056	7
Longnose skates	Annual	W	0.0063	61	0
		C	0.0063	2,513	16
		E	0.0063	632	4
Other skates	Annual	Gulfwide	0.0063	1,919	12
Sculpins	Annual	Gulfwide	0.0063	5,591	35
Sharks	Annual	Gulfwide	0.0063	4,514	28
Squids	Annual	Gulfwide	0.0063	1,137	7
Octopuses	Annual	Gulfwide	0.0063	4,878	31

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.
[3] The Western and Central GOA area apportionments of pollock are considered ACLs.

Non-Exempt AFA Catcher Vessel Halibut PSC Sideboard Limits

The halibut PSC sideboard limits for non-exempt AFA CVs in the GOA are based on the aggregate retained groundfish catch by non-exempt AFA CVs in each PSC target category from 1995 through 1997 divided by the retained catch of all vessels in that fishery from 1995 through 1997 (§ 679.64(b)(4)(ii)). Table 14 lists the proposed 2018 and 2019 non-exempt AFA CV halibut PSC limits for vessels using trawl gear in the GOA.

TABLE 14—PROPOSED 2018 AND 2019 NON-EXEMPT AMERICAN FISHERIES ACT CATCHER VESSEL HALIBUT PROHIBITED SPECIES CATCH (PSC) SIDEBOARD LIMITS FOR VESSELS USING TRAWL GEAR IN THE GOA

[PSC limits are rounded to the nearest metric ton]

Season	Season dates	Fishery category	Ratio of 1995–1997 non-exempt AFA CV retained catch to total retained catch	Proposed 2018 and 2019 PSC limit	Proposed 2018 and 2019 non-exempt AFA CV PSC limit
1	January 20–April 1	shallow-water	0.340	384	131
		deep-water	0.070	85	6
2	April 1–July 1	shallow-water	0.340	85	29
		deep-water	0.070	256	18
3	July 1–September 1	shallow-water	0.340	171	58
		deep-water	0.070	341	24
4	September 1–October 1	shallow-water	0.340	128	44
		deep-water	0.070	0	0
5	October 1–December 31	all targets	0.205	256	52
Annual:					
Total shallow-water					262
Total deep-water					48
Grand Total, all seasons and categories.				1,706	362

Non-AFA Crab Vessel Groundfish Sideboard Limits

Section 680.22 establishes groundfish sideboard limits for vessels with a history of participation in the Bering Sea snow crab fishery to prevent these vessels from using the increased flexibility provided by the Crab Rationalization Program to expand their level of participation in the GOA groundfish fisheries. Sideboard harvest limits restrict these vessels' catch to their collective historical landings in each GOA groundfish fishery (except the fixed-gear sablefish fishery). Sideboard limits also apply to landings made using an LLP license derived from the history of a restricted vessel, even if that LLP license is used on another vessel.

The basis for these sideboard harvest limits is described in detail in the final rules implementing the major provisions of the Crab Rationalization Program, including Amendments 18 and 19 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP) (70 FR 10174, March 2, 2005), Amendment 34 to the Crab FMP (76 FR 35772, June 20, 2011), Amendment 83 to the GOA FMP (76 FR 74670, December 1, 2011), and Amendment 45 to the Crab FMP (80 FR 28539, May 19, 2015).

Table 15 lists the proposed 2018 and 2019 groundfish sideboard limitations for non-AFA crab vessels. All targeted or incidental catch of sideboard species made by non-AFA crab vessels or associated LLP licenses will be deducted from these sideboard limits.

TABLE 15—PROPOSED 2018 AND 2019 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH SIDEBOARD LIMITS

[Values are rounded to the nearest metric ton]

Species	Season/gear	Area/component/gear	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	Proposed 2018 and 2019 TACs	Proposed 2018 and 2019 non-AFA crab vessel sideboard limit
Pollock	A Season January 20–March 10	Shumagin (610)	0.0098	1,725	17
		Chirikof (620)	0.0031	26,704	83
		Kodiak (630)	0.0002	8,513	2
	B Season March 10–May 31	Shumagin (610)	0.0098	1,725	17
		Chirikof (620)	0.0031	30,469	94
		Kodiak (630)	0.0002	4,748	1
	C Season August 25–October 1	Shumagin (610)	0.0098	15,125	148
		Chirikof (620)	0.0031	9,538	30
		Kodiak (630)	0.0002	12,278	2
	D Season October 1–November 1	Shumagin (610)	0.0098	15,125	148
		Chirikof (620)	0.0031	9,538	30
		Kodiak (630)	0.0002	12,278	2
	Annual	WYK (640)	0.0000	5,791	
		SEO (650)	0.0000	9,920	
Pacific cod	A Season [1] January 1–June 10	W Jig CV	0.0000	9,477	
		W Hook-and-line CV	0.0004	9,477	4
		W Pot CV	0.0997	9,477	945
		W Pot C/P	0.0078	9,477	74
		W Trawl CV	0.0007	9,477	7
		C Jig CV	0.0000	12,362	
		C Hook-and-line CV	0.0001	12,362	1
		C Pot CV	0.0474	12,362	586
		C Pot C/P	0.0136	12,362	168
		C Trawl CV	0.0012	12,362	15
	B Season [2] September 1–December 31.	W Jig CV	0.0000	6,318	
		W Hook-and-line CV	0.0004	6,318	3
		W Pot CV	0.0997	6,318	630
		W Pot C/P	0.0078	6,318	49
		W Trawl CV	0.0007	6,318	4
		C Jig CV	0.0000	8,241	
		C Hook-and-line CV	0.0001	8,241	1
		C Pot CV	0.0474	8,241	391
		C Pot C/P	0.0136	8,241	112
		C Trawl CV	0.0012	8,241	10
	Annual	E inshore	0.0110	3,303	36
		E offshore	0.0000	367	
Sablefish	Annual, trawl gear	W	0.0000	273	
		C	0.0000	915	
		E	0.0000	213	
Flatfish, shallow-water	Annual	W	0.0059	13,250	78
		C	0.0001	19,418	2
		E	0.0000	4,311	
Flatfish, deep-water	Annual	W	0.0035	257	1
		C	0.0000	3,488	
		E	0.0000	5,637	
Rex sole	Annual	W	0.0000	1,478	
		C	0.0000	4,995	
		E	0.0000	1,948	
Arrowtooth flounder	Annual	W	0.0004	14,500	6
		C	0.0001	75,000	8
		E	0.0000	13,800	
Flathead sole	Annual	W	0.0002	8,650	2
		C	0.0004	15,400	6
		E	0.0000	3,870	

TABLE 15—PROPOSED 2018 AND 2019 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL—Continued GROUNDFISH SIDEBOARD LIMITS

[Values are rounded to the nearest metric ton]

Species	Season/gear	Area/component/gear	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	Proposed 2018 and 2019 TACs	Proposed 2018 and 2019 non-AFA crab vessel sideboard limit
Pacific ocean perch	Annual	W	0.0000	2,627	
		C	0.0000	16,347	
		E	0.0000	4,480	
Northern rockfish	Annual	W	0.0005	400	0
		C	0.0000	3,108	
Shortraker rockfish	Annual	W	0.0013	38	0
		C	0.0012	301	0
		E	0.0009	947	1
Dusky rockfish	Annual	W	0.0017	146	0
		C	0.0000	3,499	
		E	0.0000	309	
Rougheye rockfish	Annual	W	0.0067	104	1
		C	0.0047	702	3
		E	0.0008	512	0
Demersal shelf rockfish	Annual	SEO	0.0000	227	
Thornyhead rockfish	Annual	W	0.0047	291	1
		C	0.0066	988	7
		E	0.0045	682	3
Other Rockfish	Annual	W/C	0.0033	1,534	5
		E	0.0000	774	
Atka mackerel	Annual	Gulfwide	0.0000	3,000	
Big skate	Annual	W	0.0392	908	36
		C	0.0159	1,850	29
		E	0.0000	1,056	
Longnose skate	Annual	W	0.0392	61	2
		C	0.0159	2,513	40
		E	0.0000	632	
Other skates	Annual	Gulfwide	0.0176	1,919	34
Sculpins	Annual	Gulfwide	0.0176	5,591	98
Sharks	Annual	Gulfwide	0.0176	4,514	79
Squids	Annual	Gulfwide	0.0176	1,137	20
Octopuses	Annual	Gulfwide	0.0176	4,878	86

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

Rockfish Program Groundfish Sideboard and Halibut PSC Limitations

The Rockfish Program establishes three classes of sideboard provisions: CV groundfish sideboard restrictions, C/P rockfish sideboard restrictions, and C/P opt-out vessel sideboard restrictions (§ 679.82(c)(1)). These sideboards are intended to limit the ability of rockfish harvesters to expand into other fisheries.

CVs participating in the Rockfish Program may not participate in directed fishing for dusky rockfish, northern rockfish, and Pacific ocean perch in the Western GOA and West Yakutat Districts from July 1 through July 31. Also, CVs may not participate in directed fishing for arrowtooth flounder, deep-water flatfish, and rex sole in the GOA from July 1 through July 31 (§ 679.82(d)).

C/Ps participating in Rockfish Program cooperatives are restricted by rockfish and halibut PSC sideboard limits. These C/Ps are prohibited from directed fishing for northern rockfish, Pacific ocean perch, and dusky rockfish in the Western GOA and West Yakutat District from July 1 through July 31. Holders of C/P-designated LLP licenses that opt out of participating in a Rockfish Program cooperative will be able to access those sideboard limits that are not assigned to Rockfish Program cooperatives (§ 679.82(e)(2) and (e)(7)). The sideboard ratio for each rockfish fishery in the Western GOA and WYK District is set forth in § 679.82(e)(4). Table 16 lists the proposed 2018 and 2019 Rockfish Program C/P rockfish sideboard limits in the Western GOA and West Yakutat District. Due to confidentiality requirements associated with fisheries data, the sideboard limits for the West Yakutat District are not displayed.

TABLE 16—PROPOSED 2018 AND 2019 ROCKFISH PROGRAM SIDEBOARD LIMITS FOR THE WESTERN GOA AND WEST YAKUTAT DISTRICT BY FISHERY FOR THE CATCHER/PROCESSOR (C/P) SECTOR

[Values are rounded to the nearest metric ton]

Area	Fishery	C/P sector (% of TAC)	Proposed 2018 and 2019 TACs	Proposed 2018 and 2019 C/P sideboard limit
Western GOA	Dusky rockfish	72.3	146	106
	Pacific ocean perch	50.6	2,627	1,329
	Northern rockfish	74.3	400	297.
West Yakutat District	Dusky rockfish	Confidential [1]	232	Confidential.[1]
	Pacific ocean perch	Confidential [1]	2,733	Confidential.[1]

[1] Not released due to confidentiality requirements associated with fish ticket data, as established by NMFS and the State of Alaska.

Under the Rockfish Program, the C/P sector is subject to halibut PSC sideboard limits for the trawl deep-water and shallow-water species fisheries from July 1 through July 31 (§ 679.82(e)(3) and (e)(5)). Halibut PSC sideboard ratios by fishery are set forth in § 679.82(e)(5). No halibut PSC sideboard limits apply to the CV sector, as vessels participating in a rockfish cooperative receive a portion of the annual halibut PSC limit. C/Ps that opt out of the Rockfish Program would be able to access that portion of the deep-water and shallow-water halibut PSC sideboard limit not assigned to C/P rockfish cooperatives. The sideboard provisions for C/Ps that elect to opt out of participating in a rockfish cooperative are described in § 679.82(c), (e), and (f). Sideboard limits are linked to the catch history of specific vessels that may choose to opt out. After March 1, NMFS will determine which C/Ps have opted-out of the Rockfish Program in 2018, and will know the ratios and amounts used to calculate opt-out sideboard ratios. NMFS will then calculate any applicable opt-out sideboard limits and post these limits on the Alaska Region Web site at *https://alaskafisheries.noaa.gov/fisheries/central-goa-rockfish-program.* Table 17 lists the 2018 and 2019 proposed Rockfish Program halibut PSC limits for the C/P sector.

TABLE 17—PROPOSED 2018 AND 2019 ROCKFISH PROGRAM HALIBUT MORTALITY LIMITS FOR THE CATCHER/PROCESSOR SECTOR

[Values are rounded to the nearest metric ton]

Sector	Shallow-water species fishery halibut PSC sideboard ratio (percent)	Deep-water species fishery halibut PSC sideboard ratio (percent)	Annual halibut mortality limit (mt)	Annual shallow-water species fishery halibut PSC sideboard limit (mt)	Annual deep-water species fishery halibut PSC sideboard limit (mt)
Catcher/processor	0.10	2.50	1,706	2	43

Amendment 80 Program Groundfish and PSC Sideboard Limits

Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (Amendment 80 Program) established a limited access privilege program for the non-AFA trawl C/P sector. The Amendment 80 Program established groundfish and halibut PSC limits for Amendment 80 Program participants to limit the ability of participants eligible for the Amendment 80 Program to expand their harvest efforts in the GOA.

Section 679.92 establishes groundfish harvesting sideboard limits on all Amendment 80 Program vessels, other than the F/V *Golden Fleece,* to amounts no greater than the limits shown in Table 37 to 50 CFR part 679. Under § 679.92(d), the F/V *Golden Fleece* is prohibited from directed fishing for pollock, Pacific cod, Pacific ocean perch, dusky rockfish, and northern rockfish in the GOA.

Groundfish sideboard limits for Amendment 80 Program vessels operating in the GOA are based on their average aggregate harvests from 1998 through 2004 (72 FR 52668, September 14, 2007). Table 18 lists the proposed 2018 and 2019 sideboard limits for Amendment 80 Program vessels. NMFS will deduct all targeted or incidental catch of sideboard species made by Amendment 80 Program vessels from the sideboard limits in Table 18.

TABLE 18—PROPOSED 2018 AND 2019 GOA GROUNDFISH SIDEBOARD LIMITS FOR AMENDMENT 80 PROGRAM VESSELS

[Values are rounded to the nearest metric ton]

Species	Season	Area	Ratio of Amendment 80 sector vessels 1998–2004 catch to TAC	Proposed 2018 and 2019 TAC (mt)	Proposed 2018 and 2019 Amendment 80 vessel sideboard limits (mt)
Pollock	A Season January 20–March 10.	Shumagin (610)	0.003	1,725	5
		Chirikof (620)	0.002	26,704	53
		Kodiak (630)	0.002	8,513	17
	B Season March 10–May 31.	Shumagin (610)	0.003	1,725	5
		Chirikof (620)	0.002	30,469	61
		Kodiak (630)	0.002	4,748	9
	C Season August 25–October 1.	Shumagin (610)	0.003	15,125	45
		Chirikof (620)	0.002	9,538	19
		Kodiak (630)	0.002	12,278	25
	D Season October 1–November 1.	Shumagin (610)	0.003	15,125	45
		Chirikof (620)	0.002	9,538	19
		Kodiak (630)	0.002	12,278	25
	Annual	WYK (640)	0.002	5,791	12
Pacific cod	A Season [1] January 1–June 10.	W	0.020	9,477	190
		C	0.044	12,362	544
	B Season [2] September 1–December 31.	W	0.020	6,318	126
		C	0.044	8,241	363
	Annual	WYK	0.034	3,671	125
Pacific ocean perch	Annual	W	0.994	2,627	2,611
		WYK	0.961	2,733	2,626
Northern rockfish	Annual	W	1.000	400	400
Dusky rockfish	Annual	W	0.764	146	112
		WYK	0.896	232	208

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

The halibut PSC sideboard limits for Amendment 80 Program vessels in the GOA are based on the historic use of halibut PSC by Amendment 80 Program vessels in each PSC target category from 1998 through 2004. These values are slightly lower than the average historic use to accommodate two factors: Allocation of halibut PSC cooperative quota under the Rockfish Program and the exemption of the F/V *Golden Fleece* from this restriction (§ 679.92(b)(2)). Table 19 lists the proposed 2018 and 2019 halibut PSC sideboard limits for Amendment 80 Program vessels. These tables incorporate the maximum percentages of the halibut PSC sideboard limits that may be used by Amendment 80 Program vessels, as contained in Table 38 to 50 CFR part 679. Any residual amount of a seasonal Amendment 80 sideboard halibut PSC limit may carry forward to the next season limit (§ 679.92(b)(2)).

TABLE 19—PROPOSED 2018 AND 2019 HALIBUT PSC SIDEBOARD LIMITS FOR AMENDMENT 80 PROGRAM VESSELS IN THE GOA

[Values are rounded to the nearest metric ton]

Season	Season dates	Fishery category	Historic Amendment 80 use of the annual halibut PSC limit (ratio)	Proposed 2018 and 2019 annual PSC limit (mt)	Proposed 2018 and 2019 Amendment 80 vessel PSC sideboard limit (mt)
1	January 20 –April 1	shallow-water	0.0048	1,706	8
		deep-water	0.0115	1,706	20
2	April 1–July 1	shallow-water	0.0189	1,706	32
		deep-water	0.1072	1,706	183
3	July 1–September 1	shallow-water	0.0146	1,706	25
		deep-water	0.0521	1,706	89
4	September 1–October 1	shallow-water	0.0074	1,706	13
		deep-water	0.0014	1,706	2
5	October 1–December 31	shallow-water	0.0227	1,706	39
		deep-water	0.0371	1,706	63
Annual:					
Total shallow-water					117
Total deep-water					357

TABLE 19—PROPOSED 2018 AND 2019 HALIBUT PSC SIDEBOARD LIMITS FOR AMENDMENT 80—Continued PROGRAM VESSELS IN THE GOA

[Values are rounded to the nearest metric ton]

Season	Season dates	Fishery category	Historic Amendment 80 use of the annual halibut PSC limit (ratio)	Proposed 2018 and 2019 annual PSC limit (mt)	Proposed 2018 and 2019 Amendment 80 vessel PSC sideboard limit (mt)
Grand Total, all seasons and categories.	.....	.....	.....	.....	474

Classification

NMFS has determined that the proposed harvest specifications are consistent with the FMP and preliminarily determined that the proposed harvest specifications are consistent with the Magnuson-Stevens Act and other applicable laws, subject to further review after public comment.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Orders 12866 and 13563.

NMFS prepared an EIS for this action and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the Final EIS. A Supplemental Information Report (SIR) that assesses the need to prepare a Supplemental EIS is being prepared for the final action. Copies of the Final EIS, ROD, and SIR for this action are available from NMFS (see **ADDRESSES**). The Final EIS analyzes the environmental consequences of the proposed groundfish harvest specifications and alternative harvest strategies on resources in the action area. The Final EIS found no significant environmental consequences from the proposed action or its alternatives.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act (RFA), analyzing the methodology for establishing the relevant TACs. The IRFA evaluated the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the EEZ off Alaska. As set forth in the methodology, TACs are set to a level that fall within the range of ABCs recommended by the SSC; the sum of the TACs must achieve the OY specified in the FMP. While the specific numbers that the methodology produces may vary from year to year, the methodology itself remains constant.

A description of the proposed action, why it is being considered, and the legal basis for this proposed action are contained in the preamble above. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The action under consideration is a harvest strategy to govern the catch of groundfish in the GOA. The preferred alternative is the existing harvest strategy in which TACs fall within the range of ABCs recommended by the SSC. This action is taken in accordance with the FMP prepared by the Council pursuant to the Magnuson-Stevens Act.

The entities directly regulated by this action are those that harvest groundfish in the EEZ of the GOA and in parallel fisheries within State of Alaska waters. These include entities operating CVs and C/Ps within the action area and entities receiving direct allocations of groundfish.

For RFA 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 11411) 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 gross receipts not in excess of $11 million for all its affiliated operations worldwide.

The IRFA shows that, in 2016, there were 920 individual CVs with gross revenues less than or equal to $11 million. This estimate accounts for corporate affiliations among vessels, and for cooperative affiliations among fishing entities, since some of the fishing vessels operating in the GOA are members of AFA inshore pollock cooperatives, GOA rockfish cooperatives, or BSAI Crab Rationalization Program cooperatives. Therefore, under the RFA, it is the aggregate gross receipts of all participating members of the cooperative that must meet the ''under $11 million'' threshold. Vessels that participate in these cooperatives are considered to be large entities within the meaning of the RFA. After accounting for membership in these cooperatives, there are an estimated 920 small CV entities remaining in the GOA groundfish sector. This latter group of vessels had average gross revenues that varied by gear type. Average gross revenues for hook-and-line CVs, pot gear vessels, and trawl gear vessels are estimated to be $340,000, $720,000, and $1.83 million, respectively. Revenue data for the three C/Ps considered to be small entities are confidential.

The preferred alternative (Alternative 2) was compared to four other alternatives. Alternative 1 would have set TACs to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the GOA OY, in which case TACs would be limited to the OY. Alternative 3 would have set TACs to produce fishing rates equal to the most recent 5-year average fishing rate. Alternative 4 would have set TACs to equal the lower limit of the GOA OY range. Alternative 5, the ''no action alternative,'' would have set TACs equal to zero.

The TACs associated with the preferred harvest strategy are those adopted by the Council in October 2017, as per Alternative 2. OFLs and ABCs for the species were based on recommendations prepared by the Council's Plan Team in September 2017, and reviewed by the Council's SSC in October 2017. The Council based its TAC recommendations on those of its AP, which were consistent with the SSC's OFL and ABC recommendations.

Alternative 1 selects harvest rates that would allow fishermen to harvest stocks at the level of ABCs, unless total harvests were constrained by the upper bound of the GOA OY of 800,000 mt. As shown in Table 1 of the preamble, the sum of ABCs in 2018 and 2019 would be 572,710 mt, which falls below the upper bound of the OY range. The sum of TACs is 465,832 mt, which is less than the sum of ABCs. In this instance, Alternative 1 is consistent with the

preferred alternative (Alternative 2), meets the objectives of that action, and has small entity impacts that may be equivalent to the preferred alternative. However, it is not likely that Alternative 1 would result in reduced adverse economic impacts to directly-regulated small entities relative to Alternative 2. The selection of Alternative 1, which could increase all TACs up to the sum of ABCs, would not reflect the practical implications that increased TACs for some species probably would not be fully harvested. This could be due to a variety of reasons, including the lack of commercial or market interest in some species. Additionally, an underharvest of flatfish TACs could result due to constraints such as the fixed, and therefore constraining, PSC limits associated with the harvest of the GOA groundfish species. Furthermore, TACs may be set lower than ABC for conservation purposes, as is the case with other rockfish in the Eastern GOA. Finally, the TACs for two species (pollock and Pacific cod) cannot be set equal to ABC, as the ABC must be reduced to account for the State of Alaska's guideline harvest levels in these fisheries.

Alternative 3 selects harvest rates based on the most recent 5 years of harvest rates (for species in Tiers 1 through 3) or based on the most recent 5 years of harvests (for species in Tiers 4 through 6). This alternative is inconsistent with the objectives of this action, the Council's preferred harvest strategy, because it does not take account of the most recent biological information for this fishery. NMFS annually conducts at-sea stock surveys for different species, as well as statistical modeling, to estimate stock sizes and permissible harvest levels. Actual harvest rates or harvest amounts are a component of these estimates, but in and of themselves may not accurately portray stock sizes and conditions. Harvest rates are listed for each species category for each year in the SAFE report (see **ADDRESSES**).

Alternative 4 would lead to significantly lower harvests of all species and reduce the TACs from the upper end of the OY range in the GOA, to its lower end of 116,000 mt. Overall, this would reduce 2018 TACs by about 80 percent and would lead to significant reductions in harvests of species harvested by small entities. While reductions of this size would be associated with offsetting price increases, the size of these increases is very uncertain. There are close substitutes for GOA groundfish species available in significant quantities from the Bering Sea and Aleutian Islands management area. While production declines in the GOA would undoubtedly be associated with significant price increases in the GOA, these increases would still be constrained by production of substitutes, and are very unlikely to offset revenue declines from smaller production. Thus, this alternative would have a detrimental impact on small entities.

Alternative 5, which sets all harvests equal to zero, would have a significant adverse economic impact on small entities and would be contrary to obligations to achieve OY on a continuing basis, as mandated by the Magnuson-Stevens Act. Under Alternative 5, all 920 individual CVs impacted by this rule would have gross revenues of $0. Additionally, the three small C/Ps impacted by this rule also would have gross revenues of $0.

The proposed harvest specifications (Alternative 2) extend the current 2018 OFLs, ABCs, and TACs to 2018 and 2019, with the exception of Pacific cod, as explained in the preamble. As noted in the IRFA, the Council may modify these OFLs, ABCs, and TACs in December 2017, when it reviews the November 2017 SAFE report from its Groundfish Plan Team, and the December 2017 Council meeting reports of its SSC and AP. Because the 2018 TACs in the proposed 2018 and 2019 harvest specifications are unchanged from the 2018 TACs, with the sole exception of modifications to Pacific cod harvest amounts, and because the sum of all TACs remains within OY for the GOA, NMFS does not expect adverse impacts on small entities. Also, NMFS does not expect any changes made by the Council in December 2017 to have significant adverse impacts on small entities.

This action does not modify recordkeeping or reporting requirements, or duplicate, overlap, or conflict with any Federal rules.

Adverse impacts on marine mammals or endangered species resulting from fishing activities conducted under this rule are discussed in the Final EIS and its accompanying annual SIRs (see **ADDRESSES**).

Authority: 16 U.S.C. 773 *et seq.;* 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: December 4, 2017.

Alan D. Risenhoover,

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

[FR Doc. 2017–26473 Filed 12–6–17; 4:15 pm]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 82, No. 235

Friday, December 8, 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

Farm Service Agency

Information Collection Request; Emergency Conservation Program (ECP) and Biomass Crop Assistance Program (BCAP)

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, as amended, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on an extension with a revision of currently approved information collection associated with the Emergency Conservation Program (ECP) and Biomass Crop Assistance Program (BCAP). This information is collected in support of, respectively, sections 401–407 of the Agricultural Credit Act of 1978, as amended, and section 9011 of the Farm Security and Rural Investment Act of 2002, as amended.

DATES: We will consider comments that we receive by February 6, 2018.

ADDRESSES: We invite you to submit comments on this Notice. In your comment, include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to: *www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail, hand delivery, or courier:* Virginia Green, ECP Program Manager, Conservation and Environmental Programs Division, Farm Service Agency, United States Department of Agriculture, STOP 0513, 1400 Independence Avenue SW., Washington, DC, 20250–0513.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Martin Bomar.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, Virginia Green, (202) 401–9144.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Emergency Conservation Program and Biomass Crop Assistance Program.

OMB Control Number: 0560–0082.

Expiration Date: March 31, 2018.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The collection of this information is necessary to allow FSA to:

(1) Effectively administer the regulations under ECP, which are set forth at 7 CFR part 701, so as to provide funding and technical assistance for farmers and ranchers to restore farmland damaged by natural disasters, and for emergency water conservation measures in severe droughts; and

(2) Effectively administer the regulations for BCAP, which are set forth at 7 CFR part 1450, so as to provide financial assistance to owners and operators of agricultural and non-industrial private forest land who wish to establish, produce, and deliver biomass feedstocks.

This information is collected in support of, respectively, sections 401–407 of the Agricultural Credit Act of 1978 (Pub. L. 95–334), as amended, and section 9011 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171), as amended.

FSA will decrease the burden hours in the request because FSA will replace the form series AD–245 and its associated computing process, with the new form series FSA–848 and a web-based computing environment. Also, participation in BCAP has been reduced due to reduced funding. FSA is removing three forms for ECP, FSA–18, ACP–153, and ACP–153A, and one form for BCAP, CCC–36, Assignment of Payment, from the information collection.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per response multiplied by the estimated total annual of responses.

Estimate of Average Time To Respond: Public reporting burden for collecting information under this notice is estimated to average 0.26556 hours per response (an average of 16 minutes), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information for all respondents, and travel time for half of the respondents. The average travel time, which is included in the total annual burden, is estimated to be 1 hour per respondent.

Type of Respondents: Owners, operators and other eligible agricultural producers on eligible farmland.

Estimated Number of Respondents: 55,680.

Estimated Number of Responses per Respondent: 5.258.

Estimated Total Annual Reponses: 292,820.

Estimated Average Time per Response: 0. 26556 hours.

Estimated Total Annual Burden on Respondents: 77,763 hours.

We are requesting comments on all aspects of this information collection to help us to:

(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 collection of information, including the validity of the methodology and assumptions used;

(3) Evaluate the quality, ability and clarity of the information technology; and

(4) Minimize the burden of the information collection on those who respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information.

All responses to this notice, including names and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Steven J. Peterson,

Acting Administrator, Farm Service Agency.

[FR Doc. 2017–26464 Filed 12–7–17; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities; Comment Request; Supplemental Nutrition Assistance Program Pre-Screening Tool

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a revision of a currently approved collection for a web-based pre-screening tool used by the general public to determine potential eligibility for Supplemental Nutrition Assistance Program (SNAP) benefits.

DATES: Written comments must be received on or before February 6, 2018.

ADDRESSES: Comments may be sent to: Sasha Gersten-Paal, Branch Chief, Certification Policy Branch, Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 812 Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Sasha Gersten-Paal at 703–305–2507 or via email to *Sasha.Gersten-Paal@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Sasha Gersten-Paal at 703–305–2705.

SUPPLEMENTARY INFORMATION: 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, including the validity of the methodology and assumptions that were 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 use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Supplemental Nutrition Assistance Pre-Screening Tool.

Form Number: None.

OMB Number: 0584–0519.

Expiration Date: 03/31/2018.

Type of Request: Revision of a currently approved collection.

Abstract: In June 2003, The Food and Nutrition Service (FNS) deployed an interactive web-based pre-screening tool that can be utilized by the general public to determine the potential eligibility for benefits in the Supplemental Nutrition Assistance Program (SNAP). The pre-screening tool allows the English and Spanish speaking user to enter the household size, income, expenses and resource information in order to calculate an estimated range of benefits that the household may be eligible to receive. Since SNAP eligibility and benefit amount may vary based on program options States have implemented, FNS makes it clear that the tool is only an estimator and the household will need to contact the local agency to determine actual eligibility and the associated benefit amount.

Some other data requested by the tool include:

- State or territory in which the user resides;
- Number of People: Number of people living in the household;
- First Name/Age/Disability;
- Citizenship: Whether each member is a U.S. citizen;
- Earned Income/Assets/Motor Vehicle Ownership;
- Migrant Workers: Whether anyone in the household is a seasonal or migrant farm worker;
- Homeless: Whether the household is homeless or living in a shelter;
- Utility expenses: Whether the client is billed for utility costs.

Although the tool also requests the name and age of the user, FNS does not retain this information nor does it request other personally identifiable information such as social security numbers or birthdates of the household members. Once the user logs out of the system, none of the user-provided information is retained by FNS. FNS estimates it will take approximately 380,283 users about 10 minutes (.167 hours) to provide the required information to receive potential eligibility benefit information using the pre-screening tool. Users are expected to access the system once for a total annual response of 380,283. FNS estimates 63,507 burden hours for this activity.

In reviewing SNAP participation data for FY 2014 to FY 2016, it was noticed that participation has decreased each year and this downward trajectory suggests that household participation in SNAP may continue to decline. Based on this analysis, and the number of potential applicants estimated to use the prescreening tool, FNS requests an annual burden inventory of 63,507 hours, which represents a decrease in 3,716 hours since the last extension of this collection, which approved for 67,223 hours.

Affected Public: Individuals and households, potential SNAP clients.

Estimated Number of Respondents: 380,283.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 380,283.

Estimated Time per Response: 0.167.

Estimated Total Annual Burden on Respondents: 63,507.

OMB No. 0584–0519	Requirement	Estimated number of respondents	Responses annually per respondent	Total annual responses	Hours per response	Annual burden hours
Affected Public	**INDIVIDUAL AND HOUSEHOLDS**					
Potential SNAP Clients						
Reporting Burden	Completion of SNAP Pre-screening Tool	380,283	1	380,283	0.167	63,507
Reporting Totals		380,283	1	380,283	0.167	63,507

Dated: October 23, 2017.

Brandon Lipps,

Administrator, Food and Nutrition Service.

[FR Doc. 2017–26494 Filed 12–7–17; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Agency: Economic Development Administration (EDA or Agency).

Title: Revolving Loan Fund Reporting and Compliance Requirements.

OMB Control Number: 0610–0095.

Form Number(s): ED–209.

Type of Review: Revision of a collection currently under review.

Number of Respondents: 866.

Average Hours per Response: 1.5 hours.

Burden Hours: 1,299 hours.

Needs and Uses: The EDA Revolving Loan Fund (RLF) Program, authorized under section 209 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3149), has been part of EDA investment programs since the establishment of the RLF Program in 1975. The purpose of the RLF Program is to provide regions with a flexible and continuing source of capital, to be used with other economic development tools, for creating and retaining jobs and inducing private investment that will contribute to long-term economic stability and growth. EDA provides RLF grants to eligible recipients, which include State and local governments, Indian tribes, and non-profit organizations, to operate a lending program that offers loans with flexible repayment terms, primarily to small businesses in distressed communities that are unable to obtain traditional bank financing. These loans enable small businesses to expand and lead to new employment opportunities that pay competitive wages and benefits.

A unique feature of the RLF Program is that EDA must monitor RLF grants in perpetuity because, absent statutory authority providing otherwise, the Federal interest in an RLF never expires. EDA regulations currently require RLF recipients to submit a financial report to EDA on a semi-annual basis for each RLF (13 CFR 307.14(a)), which is currently submitted via Form ED–209, Revolving Loan Fund Financial Report. In addition, RLF recipients must also submit on a semi-annual basis a completed Form ED–209I, RLF Income and Expense Statement, if either of the following conditions apply: RLF administrative expenses for the reporting period exceeded $100,000, or RLF administrative expenses for the reporting period exceeded 50 percent of RLF income earned during the reporting period (13 CFR 307.14(c)). EDA requires both reports to be completed using standardized, auto-calculable fillable PDF (Portable Document Format) forms.

EDA is revising its regulations implementing the RLF Program through a final rule published in the **Federal Register** on December 1, 2017, ''Revolving Loan Fund Program Changes and General Updates to Public Works and Economic Development Act Regulations'' (82 FR 57034). The revised regulations update RLF Program requirements to reflect best practices within financial institutions and to strengthen EDA's efforts to evaluate, monitor, and improve RLF performance by moving to a risk-based approach to assess individual RLFs. The measures EDA plans to use to assess performance under the new risk-based approach were published in a notice in the **Federal Register** on December 1, 2017, ''Implementation of Revolving Loan Fund Risk Analysis System'' (82 FR 56942).

In the transition to a risk-based approach, EDA has revised the RLF regulations to eliminate the requirement that RLF recipients submit Form ED–209I. The revised RLF regulations instead encourage RLF recipients to keep administrative expenses to a minimum in order to maintain and grow the capital base of RLFs, in part by incorporating the percentage of RLF income used for administrative expenses as a performance measure in the new risk-based approach. Because of this change, EDA has determined that it is no longer necessary for RLF recipients to submit income and expense statements through Form ED–209I. In addition, EDA is revising Form ED–209 to reflect the new regulations and to ensure that the Form collects only the data necessary, including individual loan detail, to oversee the RLF Program under the new risk-based approach. As such, the revised Form ED–209 is shorter and easier to complete. The revised regulations will allow those RLF recipients that earn a high rating under the new risk-based monitoring approach to be placed on an annual reporting cycle, while RLF recipients receiving lower ratings will be required to maintain semi-annual reporting.

The reduction in burden associated with the revised Form ED–209 and eliminated Form ED–209I is not a distinct ''deregulatory action'' for the purposes of Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' The revised Form ED–209 and eliminated Form ED–209I are one piece of EDA's transition to a risk-based approach to monitor and manage the RLF Program. As such, the reduction in burden stemming from the shortened and simplified Form ED–209 and eliminated Form ED–209I are already accounted for as part of the broader ''deregulatory action'' made pursuant to the recently published final rule that revised the regulations governing the RLF Program.

This notice clarifies the notice previously published in the **Federal Register** on November 2, 2017 relating to this information collection (82 FR 50858) and extends the 30-day period for public comment established in that notice to 30 days after publication of this notice.

Affected Public: EDA RLF recipients, including state and local governments, Indian tribes, and non-profit organizations.

Frequency: Semiannually or annually, depending on the RLF recipient's rating under the risk-based oversight approach, as explained above.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view DOC collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or faxed to (202) 395–5806.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–26471 Filed 12–7–17; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–992]

Monosodium Glutamate From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 7, 2017, the Department of Commerce (the

Department) published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty (AD) order on monosodium glutamate (MSG) from the People's Republic of China (PRC) covering the period of review (POR) November 1, 2015, through October 31, 2016. This review covered 27 exporters of subject merchandise. Because none of these companies filed a separate rate application (SRA) and/or a separate rate certification (SRC) to establish their separate rate status, they are being considered part of the PRC-wide entity.

DATES: Applicable December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1396.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2017, the Department published the *Preliminary Results* and gave interested parties an opportunity to comment.[1] The Department received no comments. The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by this order is MSG, whether or not blended or in solution with other products. Specifically, MSG that has been blended or is in solution with other product(s) is included in this scope when the resulting mix contains 15 percent or more of MSG by dry weight. Products with which MSG may be blended include, but are not limited to, salts, sugars, starches, maltodextrins, and various seasonings. Further, MSG is included in this order regardless of physical form (including, but not limited to, in monohydrate or anhydrous form, or as substrates, solutions, dry powders of any particle size, or unfinished forms such as MSG slurry), end-use application, or packaging. MSG in monohydrate form has a molecular formula of $C_5H_8NO_4Na$-H_2O, a Chemical Abstract Service (CAS) registry number of 6106–04–3, and a Unique Ingredient Identifier (UNII) number of W81N5U6R6U. MSG in anhydrous form has a molecular formula of $C_5H_8NO_4Na$, a CAS registry number of l42–47–2, and a UNII number of C3C196L9FG. Merchandise covered by the scope of this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2922.42.10.00. Merchandise subject to the order may also enter under HTS subheadings 2922.42.50.00, 2103.90.72.00, 2103.90.74.00, 2103.90.78.00, 2103.90.80.00, and 2103.90.90.91. The tariff classifications, CAS registry numbers, and UNII numbers are provided for convenience and customs purposes; however, the written description of the scope is dispositive.[2]

Final Results of Review

The Department preliminarily determined that none of the companies demonstrated eligibility for separate rate status and were thus found to be part of the PRC-wide entity.[3] As noted above, the Department received no comments concerning the *Preliminary Results* on the record of this segment of the proceeding. As there are no changes from, or comments upon, the *Preliminary Results,* the Department finds that there is no reason to modify its analysis. Accordingly, no decision memorandum accompanies this **Federal Register** notice. For further details of the issues addressed in this proceeding, *see* the *Preliminary Results.*[4] In these final results of review, we continued to treat all 27 exporters subject to this review as part of the PRC-wide entity.[5] The PRC-wide entity rate is 40.41 percent.[6]

PRC-Wide Entity

The Department's policy regarding the conditional review of the PRC-wide entity applies to this administrative review.[7] Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate is not subject to change (*i.e.,* 40.41 percent).[8]

Assessment Rates

The Department has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries in this review, in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1). The Department intends to issue assessment instructions directly to CBP 15 days after publication in the **Federal Register** of these final results of this administrative review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters not under review in this segment of the proceeding, but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide entity rate (*i.e.,* 40.41 percent); and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or

[1] *See Monosodium Glutamate from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2015–16,* 82 FR 36730 (August 7, 2017) (*Preliminary Results*).

[2] *See Monosodium Glutamate from the People's Republic of China: Second Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Order,* 80 FR 487 (January 6, 2015) (*Amended Antidumping Duty Order*).

[3] *See Preliminary Results.*

[4] *See Preliminary Results.*

[5] In the *Preliminary Results,* we found all 27 exporters subject to this review to be part of the PRC-wide entity as each exporter failed to submit an SRA and/or an SRC to establish its eligibility for separate rate status. For further details of the issues addressed in this proceeding, *see* the *Preliminary Results.*

[6] *See Amended Antidumping Duty Order.*

[7] *See* Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963 (November 4, 2013).

[8] *See Amended Antidumping Duty Order.*

destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation, which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h).

Dated: December 4, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–26486 Filed 12–7–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–968]

Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has completed the administrative review of the countervailing duty (CVD) order on aluminum extrusions from the People's Republic of China (PRC) for the January 1, 2015, through December 31, 2015, period of review (POR). We have determined that mandatory respondents Changzhou Jinxi Machinery Co., Ltd. (Changzhou Jinxi) and tenKsolar (Shanghai) Co., Ltd. (tenKsolar) received countervailable subsidies during the POR. The final net subsidies are listed below in the section entitled ''Final Results of Administrative Review.''

DATES: Applicable December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Tom Bellhouse or Tyler Weinhold, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2057 or (202) 482–1121, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* of this administrative review in the **Federal Register** on June 7, 2017.[1] For a description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2]

Scope of the Order

The merchandise covered by the order is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order, which is contained in the accompanying Issues and Decision Memorandum, is dispositive.[3]

Analysis of Comments Received

All issues raised in the parties' briefs are addressed in the Issues and Decision Memorandum, dated concurrently with, and hereby adopted by, this notice. A list of issues addressed is attached as an Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov;* the Issues and Decision Memorandum is available to all parties in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building. In

[1] *See Aluminum Extrusions from the People's Republic of China: Preliminary Results of the Countervailing Duty Administrative Review and Rescission of Review, in Part; 2015,* 82 FR 26438 (June 7, 2017) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Decision Memorandum for the Final Results of Countervailing Duty Administrative Review: Aluminum Extrusions from the People's Republic of China, 2015,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Issues and Decision Memorandum for a full description of the scope of the order.

addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] For a full description of the methodology underlying the Department's conclusions, including any determination that relied upon the use of adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Issues and Decision Memorandum.

Rate for Non-Selected Companies Under Review

In this review, and in addition to the two selected mandatory respondents, there are 16 companies for which a review was requested and not rescinded (non-selected companies). For these non-selected companies, we could not calculate a rate by averaging Changzhou Jinxi's and tenKsolar's individual rates, as the rates for both companies are based entirely on adverse facts available.[5] Instead, for these final results, we based the non-selected companies' rates on the subsidy rate calculated for non-selected companies in the prior administrative review. For further information on the calculation of the non-selected companies' rates, refer to the section in the Issues and Decision Memorandum entitled, ''Final *Ad Valorem* Rate for Non-Selected Companies Under Review.''

Final Results of Administrative Review

In accordance with 19 CFR 351.221(b)(5), we determine the following final net subsidy rates for the 2015 administrative review:

Company	Ad valorem rate (Percent)
tenKsolar (Shanghai) Co., Ltd	198.61
Changzhou Jinxi Machinery Co., Ltd	198.61
Classic & Contemporary Inc	16.08
Daya Hardware Co., LTD	16.08
Dongguan Golden Tiger Hardware Industrial Co., Ltd	16.08
ETLA Technology (Wuxi) Co., Ltd	16.08
Global Hi-Tek Precision Limited	16.08
Jiangsu Zhenhexiang New Material Technology Co., Ltd	16.08
Johnson Precision Engineering (Suzhou) Co Ltd	16.08
Kam Kiu Aluminum Products Sdn Bhd	16.08
Ningbo Haina Machine Co., Ltd	16.08
Ningbo Innopower Tengda Machinery Co., Ltd	16.08
Ningbo Yinzhou Sanhua Electric Machine Factory	16.08
Precision Metal Works LTD	16.08
Summit Heat Sinks Metal Co., Ltd	16.08
Suzhou New Hongji Precision Parts Co Ltd	16.08
Taishan City Kam Kiu Aluminium Extrusion Co., Ltd	16.08
Wuxi Huida Aluminum Co., Ltd	16.08

Assessment Rates

The Department intends to issue appropriate assessment instructions directly to CBP, 15 days after publication of these final results of review, to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 2015, through December 31, 2015, at the *ad valorem* rates listed above.

Cash Deposit Requirements

The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts indicated above for each company listed on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. Accordingly, the cash deposit requirements that will be applied to companies covered by this order, but not examined in this administrative review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 4, 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

List of Topics Discussed in the Final Decision Memorandum

Summary
Background
Scope of the Order
Analysis of Comments
- Comment 1: Application of AFA to tenKsolar
- Comment 2: Inclusion of Alleged Non-Use Programs in tenKsolar's Rate Calculation
- Comment 3: Inclusion of Geographically Limited Programs in tenKsolar's Rate Calculation
- Comment 4: Inclusion of Programs Which Have Allegedly Been Terminated in tenKsolar's Rate Calculation
- Comment 5: AFA Subsidy Rates for Certain Income Tax Rebate, Depreciation, Refund, Offset, and Arrears Forgiveness Programs
- Comment 6: Selection of Respondents
- Comment 7: Application of AFA to Changzhou Jinxi

Conclusion

[FR Doc. 2017–26488 Filed 12–7–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–820, A–560–830]

Biodiesel From Argentina and Indonesia: Postponement of Final Determinations of Sales in Less Than Fair Value Investigations and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is postponing the

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[5] *See* sections 703(d) and 705(c)(5)(A) of the Act.

deadline for issuing the final determinations in the less-than-fair-value (LTFV) investigations of biodiesel from Argentina and Indonesia until February 15, 2018, and is extending the provisional measures from a four-month period to a period of not more than six months.

DATES: Applicable December 8, 2017.

FOR FURTHER INFORMATION CONTACT: David Lindgren at (202) 482–3870 (Argentina); Myrna Lobo at (202) 482–2371 (Indonesia), Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 2017, the Department initiated LTFV investigations of imports of biodiesel from Argentina and Indonesia.[1] The period of investigation for each investigation is January 1, 2016, through December 31, 2016. On October 31, 2017, the Department published its *Preliminary Determination* in each of these LTFV investigations.[2]

Postponement of Final Determinations

Section 735(a)(2) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(2) provide that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by the exporters or producers who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Further, 19 CFR 351.210(e)(2) requires that such postponement requests by exporters be accompanied by a request for extension of provisional meausres from a four-month period to a period of not more than six months, in accordance with section 733(d) of the Act.

In September 2017, P.T. Musim Mas (Musim Mas) and Wilmar Trading PTE Ltd. (Wilmar), the mandatory respondents in the Indonesia investigation, requested that the Department postpone the deadline for the final determination until no later than 135 days from the publication of the *Indonesia Preliminary Determination,* and extend the application of the provisional measures from a four-month period to a period of not more than six months.[3] In November 2017, Camara Argentina de Biocombustibles (CARBIO) and LDC Argentina S.A. (LDC), the mandatory respondents in the Argentina investigation, requested that the Department postpone the deadline for the final determination until no later than 135 days from the publication of the *Argentina Preliminary Determination,* and extend the application of the provisional measures from a four-month period to a period of not more than six months.[4]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) each preliminary determination was affirmative; (2) the requests in each investigation were made by the exporters and producers who account for a significant proportion of exports of the subject merchandise from the country at issue; and (3) no compelling reasons for denials exist, the Department is postponing the final determination in each investigation until no later than 107 days after the date of the publication of the relevant preliminary determination, and extending the provisional measures from a four-month period to a period of not more than six months. Accordingly, the Department will issue its final determination in each investigation no later than February 15, 2018.

This notice is issued and published pursuant to 19 CFR 351.210(g).

Dated: December 4, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–26489 Filed 12–7–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Biodiesel from Argentina and Indonesia: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 18428 (April 19, 2017).

[2] *See Biodiesel from Agentina: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Determination of Critical Circumstances, In Part,* 82 FR 50391 (October 31, 2017) (*Argentina Preliminary Determination*); *see also Biodiesel from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value,* 82 FR 50379 (*Indonesia Preliminary Determination*).

[3] *See* Musim Mas' Letter, ''Biodiesel from Indonesia: Request to Extend Final Determination,'' dated September 19, 2017; *see also* Wilmar's Letter, ''Biodiesel from Indonesia: Request for Extension of Final Determination,'' dated September 19, 2017.

[4] *See* CARBIO's Letter, ''CARBIO's Request for Postponement of the Final Determination *Biodiesel from Argentina (A–357–820),*'' dated November 10, 2017; *see also* LDC's Letter, ''Biodiesel from Argentina: Request for Postponement of the Final Determination,'' dated November 16, 2017.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska License Limitation Program for Groundfish, Crab, and Scallops.

OMB Control Number: 0648–0334.

Form Number(s): None.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 49.

Average Hours per Response: Transfers, 1 hour; appeals, 4 hours.

Burden Hours: 52.

Needs and Uses: This request is for extension of a current information collection.

The License Limitation Program (LLP) restricts access to the commercial groundfish fisheries, commercial crab fisheries, and commercial scallop fisheries in the Exclusive Economic Zone off Alaska except for certain areas where alternative programs exist. The intended effect of the LLP is to limit the number of participants and reduce fishing capacity in fisheries off Alaska.

For a vessel designated on an LLP license, the LLP license authorizes the type of fishing gear that may be used by the vessel, the maximum size of the vessel, an area endorsement, and whether the vessel may catch and process fish at sea or if it is limited to delivering catch without at-sea processing. LLP licenses that allow vessels to catch and process at-sea are assigned a catcher/processor endorsement. LLP licenses specify the maximum length overall (MLOA) of the vessel to which that LLP license may be assigned. The LLP may also include a species endorsement for Pacific cod in the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA).

An LLP license is required for vessels participating in directed fishing for LLP groundfish species in the BSAI or GOA, or fishing in any BSAI LLP crab fisheries. An LLP license is also required for any vessel deployed in scallop fisheries in Federal waters off Alaska (except for some diving operations).

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: December 5, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–26467 Filed 12–7–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Economic Impacts of Diving and Snorkeling Expenditures in Hawaii

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 6, 2018.

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 *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Kristy Wallmo, 301–427–8190 or *kristy.wallmo@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new collection of information.

The objective of the survey will be to understand divers' and snorkelers' expenditures associated with recreational coral reef diving activities in Hawaii. The survey will also collect information on divers' attitudes, preferences, and concerns about recreational diving and coral reefs health in Hawaii. We are conducting this survey to improve our understanding of divers' expenditure patterns and to estimate the economic impact of coral reef related spending. Results of the survey will be used to inform coastal resource management planning and establish a baseline for outreach and education. The expenditure survey is also expected to provide useful information for local economic and business interests. A similar survey (OMB 0648–0746) was implemented in south Florida and was successfully completed in Nov. 2017.

II. Method of Collection

The survey will be conducted using two modes: mail and Internet.

III. Data

OMB Control Number: 0648–XXXX.

Form Number: None.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Individual recreational divers and snorkelers.

Estimated Number of Respondents: 1,500.

Estimated Time Per Response: 20 minutes

Estimated Total Annual Burden Hours: 500.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 5, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–26466 Filed 12–7–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF861

Endangered Species; File Nos. 21198 and 21434

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 U.S. Fish and Wildlife Service (USFWS), Southeast Regional Office, Century Boulevard, Atlanta, GA 30602 [Responsible Party: Allan Brown], has applied in due form for a permit [File No. 21198] to take captive shortnose sturgeon (*Acipenser brevirostrum*) and Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) for purposes of scientific research and enhancement. Additionally the Maryland Department of Natural Resources, Cooperative Oxford Laboratory, 904 South Morris Street, Oxford, Maryland 21654 [Responsible Party: Brian Richardson], has applied in due form for a permit [File No. 21434] to take captive Atlantic sturgeon for purposes of conducting scientific research and enhancement.

DATES: Written, telefaxed, or email comments must be received on or before January 8, 2018.

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 File Nos. 21198 or 21434 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 this application 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(s) would be appropriate.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Erin Markin at (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

File No. 21198: Researchers with the USFWS propose to use existing captive populations of shortnose and Atlantic sturgeon to conduct research facilitating the development of new methods needed for achieving species recovery in facilities located in the Southeast Region of the USFWS. Research would include nutrition, physiology, nutrition, propagation, contaminants, genetics, fish health, cryopreservation, tagging, refugia, and collaborative research with others. Additional objectives would include collaborative research and public display at other satellite facilities on the permit. The permit would be valid for ten years from the date of issuance.

File No. 21434: Researchers at the Maryland Department of Natural Resources and cooperating researchers (*e.g.,* University of Maryland and other collaborators) propose objectives for conducting research and public display on captive Atlantic sturgeon. Researchers propose developing reliable culture techniques, minimizing or eliminating the use of wild fish and impacts on non-target species. Research projects are to include fish physiology, fish culture, behavioral studies, tagging, fish nutrition, propagation methods, genetics, cryopreservation, refinement of anesthetization technology, and refugia as needed for management priorities. Additional objectives would include collaborative research and public display at other satellite facilities on the permit. The permit would be valid for ten years from the date of issuance.

Dated: December 5, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–26493 Filed 12–7–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Crab Arbitration.

OMB Control Number: 0648–0516.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 2.

Average Hours Per Response: 6.

Burden Hours: 12.

Needs and Uses: This request is for extension of a current information collection.

The Crab Rationalization Program (CRP) allocates Bering Sea and Aleutian Islands (BSAI) crab resources among harvesters, processors, and coastal communities through a limited access system that balances the interests of these groups who depend on these fisheries.

The Crab Rationalization Program Arbitration System (CRPAS) is a series of steps that harvesters and processors can use to negotiate delivery and price contracts. The Arbitration System allows unaffiliated Class A individual fishing quota holders to initiate an arbitration proceeding in the event of a dispute to allow an independent third party to provide a review of harvester and processor negotiation positions and provide an independent and binding resolution to issues under dispute. To use the arbitration system, a harvester must commit deliveries to a processor and initiate a binding arbitration proceeding in advance of the season opening. The Arbitration System is designed to minimize antitrust risks for crab harvesters and processors and is intended to ensure that a reasonable price is paid for all landings.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Annually.

Respondent's Obligation: Required to retain or obtain benefits.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: December 5, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–26468 Filed 12–7–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF792

Endangered and Threatened Species; Initiation of a 5-Year Review for the Endangered Western Distinct Population Segment of Steller Sea Lion

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

ACTION: Notice of initiation of 5-year review; request for information.

SUMMARY: We, NMFS, announce our intent to conduct a 5-year review for the endangered western distinct population segment (DPS) of Steller sea lion (*Eumetopias jubatus*) under the Endangered Species Act of 1973, as amended (ESA). We are required by the ESA to conduct 5-year reviews to ensure that the listing classifications of species are accurate. The 5-year review must be based on the best scientific and commercial data available at the time of the review. We request submission of any such information on the Western DPS of Steller sea lion, particularly information on the status, threats, and recovery of the species that has become available since the final listing determination in May, 1997.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than February 6, 2018. However, we will continue to accept new information about Steller sea lions at any time.

ADDRESSES: Submit your information or comments by including the FDMS

Docket Number NOAA–NMFS–2017–0137, by either of the following methods:

• *Federal e-Rulemaking Portal.* Go to *www.regulations.gov/!docketDetail;D=NOAA–NMFS–2017–0137,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written information to Jon Kurland, Assistant Regional Administrator for Protected Resources, Alaska Region NMFS, Attn: Ellen Sebastian, P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: We may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the specified period. All comments received are a part of the public record, and we will generally post for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender is publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic submissions will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Dr. Lisa Rotterman, 907–271–1692 or *lisa.rotterman@noaa.gov.*

SUPPLEMENTARY INFORMATION:

The Steller sea lion was listed as threatened under the ESA by an emergency interim rule on April 5, 1990 (55 FR 12645). NMFS published a final rule to list the Steller sea lion as a threatened species under the ESA on November 26, 1990 (55 FR 49204). NMFS designated critical habitat for the Steller sea lion on August 27, 1993 (58 FR 45269). On May 5, 1997, based on demographic and genetic dissimilarities, NMFS identified two DPSs of Steller sea lions under the ESA: A western DPS (WDPS) and an eastern DPS (EDPS) (62 FR 24345). Due to persistent decline and lack of recovery, the WDPS, comprised of animals originating from breeding sites west of 144° W longitude, was listed as endangered (62 FR 24345, May 5, 1997), and the EDPS remained listed as threatened.

Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. On the basis of such reviews under section 4(c)(2)(B), we determine whether a species should be removed from the List (delisted), or reclassified in status from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and is considered only if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error (see 50 CFR 424.11(d)). Reclassification also must be supported by the best scientific and commercial data available and is considered only after conducting a review of the species' status in light of the listing factors provided in section 4(a)(1) of the ESA (see 50 CFR 424.11(c)). Any change in classification (delisting or reclassification) would require a rulemaking process. The ESA implementing regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the WDPS, which is currently listed as endangered.

Background information about this species, including their endangered listing, related critical habitat designation, recovery planning, and protective regulations, is available on the NMFS Alaska Region Web site at *https://alaskafisheries.noaa.gov/.*

Determining if a Species Is Threatened or Endangered

Section 4(a)(1) of the ESA requires that we determine whether a species is endangered or threatened based on one or more of the five following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Section 4(b) also requires that our determination be made solely on the basis of the best scientific and commercial data available after taking into account those efforts, if any, being made by any State or foreign nation to protect such species.

Application of the DPS Policy

The western DPS of Steller sea lion was listed as a DPS of a vertebrate taxon. In the application of the DPS Policy, we are responsible for determining whether species, subspecies, or DPSs of marine and anadromous species are threatened or endangered under the ESA. A DPS is defined in the February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722). For a population to be listed under the ESA as a DPS, three elements are considered: (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (*i.e.,* is the population segment, when treated as if it were a species, endangered or threatened?). DPSs of vertebrate species, as well as subspecies of all listed species, may be proposed for separate reclassification or for removal from the List. As required by the DPS policy, we will apply the DPS policy during the 5-year review.

Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting relevant information. The 5-year review will consider the best scientific and commercial data that has become available since the listing determination. Categories of requested information include (1) species biology including population trends, distribution, abundance, demographics, population structure, ecology, behavior, and genetics; (2) habitat conditions including amount, distribution, and suitability; (3) conservation measures that benefit the species, including monitoring data demonstrating the effectiveness of such measures in addressing identified limiting factors or threats; (4) data concerning status and trends of identified threats; (5) information that may affect determinations regarding the composition of the WDPS; and (6) other new information.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: December 4, 2017.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–26435 Filed 12–7–17; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes products from the Procurement List previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date deleted from the Procurement List:* January 7, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 10/27/2017 (82 FR 49788) and 11/3/2017 (82 FR 51221–51224), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

NSN(s)—Product Name(s): 5340–01–259–4151—AQL Inspection
Mandatory Source(s) of Supply: Provail, Seattle, WA
Contracting Activity: Defense Logistics Agency Troop Support

NSN(s)—Product Name(s):
8405–00–NSH–1347—14–14.5 Neck, 32–33 Sleeve
8405–00–NSH–1351—16–16.5 Neck, 33–34 Sleeve
8405–00–NSH–1352—16–16.5 Neck, 34–35 Sleeve
8405–00–NSH–1348—14–14.5 Neck, 33–34 Sleeve
8405–00–NSH–1349—15–15.5 Neck, 33–34 Sleeve
8405–00–NSH–1350—15–15.5 Neck, 34–35 Sleeve
8405–00–NSH–1353—17–17.5 Neck, 34–35 Sleeve
8405–00–NSH–1354—17–17.5 Neck, 35–36 Sleeve
8405–00–NSH–1355—18–18.5 Neck, 35–36 Sleeve
8405–00–NSH–1356—18–18.5 Neck, 36–37 Sleeve
8405–00–NSH–1357—19–19.5 Neck, 36–37 Sleeve
8405–00–NSH–1358—19–19.5 Neck, 37–38 Sleeve
8405–00–NSH–1359—20–20.5 Neck, 37–38 Sleeve
8405–00–NSH–1360—20–20.5 Neck, 38–39 Sleeve
8405–00–NSH–1361—21–21.5 Neck, 38–39 Sleeve
8405–00–NSH–1362—21–21.5 Neck, 40–41 Sleeve
8405–00–NSH–1363—22–22.5 Neck, 40–41 Sleeve
8405–00–NSH–1364—22–22.5 Neck, 41–42 Sleeve
8405–00–NSH–1263—14–14.5 Neck, Small Tall
8405–00–NSH–1264—15–15.5 Neck, Medium Tall
8405–00–NSH–1265—16–16.5 Neck, Large Tall
8405–00–NSH–1266—17–17.5 Neck, X Large Tall
8405–00–NSH–1166—22–22.5 Neck, 6X Large
8405–00–NSH–1165—21–21.5 Neck, 5X Large
8405–00–NSH–1164—20–20.5 Neck, 4X Large
8405–00–NSH–1162—18–18.5 Neck, XX Large
8405–00–NSH–1161—17–17.5 Neck, X Large
8405–00–NSH–1160—16–16.5 Neck, Large
8405–00–NSH–1159—15–15.5 Neck, Medium
8405–00–NSH–1158—14–14.5 Neck, Small
8405–00–NSH–1163—19–19.5 Neck, XXX Large
8405–00–NSH–1267—18–18.5 Neck, XX Large Tall
8405–00–NSH–1268—19–19.5 Neck, XXX Large Tall
8405–00–NSH–1269—20–20.5 Neck, 4X Large Tall
8405–00–NSH–1270—21–21.5 Neck, 5X Large Tall
8405–00–NSH–1271—22–22.5 Neck, 6X Large Tall
8405–00–NSH–1127—16–16.5 Neck, 34–35 Sleeve
8405–00–NSH–1122—14–14.5 Neck, 32–33 Sleeve
8405–00–NSH–1123—14–14.5 Neck, 33–34 Sleeve
8405–00–NSH–1124—15–15.5 Neck, 33–34 Sleeve
8405–00–NSH–1125—15–15.5 Neck, 34–35 Sleeve
8405–00–NSH–1126—16–16.5 Neck, 33–34 Sleeve
8405–00–NSH–1128—17–17.5 Neck, 34–35 Sleeve
8405–00–NSH–1129—17–17.5 Neck, 35–36 Sleeve
8405–00–NSH–1130—18–18.5 Neck, 35–36 Sleeve
8405–00–NSH–1131—18–18.5 Neck, 36–37 Sleeve
8405–00–NSH–1132—19–19.5 Neck, 36–37 Sleeve
8405–00–NSH–1133—19–19.5 Neck, 37–38 Sleeve
8405–00–NSH–1134—20–20.5 Neck, 37–38 Sleeve
8405–00–NSH–1135—20–20.5 Neck, 38–39 Sleeve
8405–00–NSH–1136—21–21.5 Neck, 38–39 Sleeve
8405–00–NSH–1137—21–21.5 Neck, 40–41 Sleeve
8405–00–NSH–1138—22–22.5 Neck, 40–41 Sleeve
8405–00–NSH–1139—22–22.5 Neck, 41–42 Sleeve
8405–00–NSH–1103—Size 36
8405–00–NSH–1104—Size 38
8405–00–NSH–1105—size 40
8405–00–NSH–1106—size 42
8405–00–NSH–1107—size 44
8405–00–NSH–1108—size 46
8405–00–NSH–1109—size 48
8405–00–NSH–1099—Size 28
8405–00–NSH–1100—Size 30
8405–00–NSH–1101—Size 32
8405–00–NSH–1102—Size 34
8405–00–NSH–1114—Size 36
8405–00–NSH–1115—Size 38
8405–00–NSH–1116—size 40
8405–00–NSH–1117—size 42
8405–00–NSH–1118—size 44
8405–00–NSH–1119—size 46
8405–00–NSH–1120—size 48
8405–00–NSH–1121—size 50
8405–00–NSH–1110—Size 28
8405–00–NSH–1111—Size 30
8405–00–NSH–1112—Size 32
8405–00–NSH–1113—Size 34
8405–00–NSH–1369—Size 36
8405–00–NSH–1370—Size 38
8405–00–NSH–1371—size 40
8405–00–NSH–1372—size 42
8405–00–NSH–1373—size 44
8405–00–NSH–1374—size 46
8405–00–NSH–1375—size 48
8405–00–NSH–1376—size 50
8405–00–NSH–1366—Size 30
8405–00–NSH–1365—Size 28
8405–00–NSH–1367—Size 32
8405–00–NSH–1368—Size 34
8410–00–NSH–6329—size 4
8410–00–NSH–6330—size 6
8410–00–NSH–6331—size 8
8410–00–NSH–6337—size 20
8410–00–NSH–6338—size 22
8410–00–NSH–6334—size 14
8410–00–NSH–6332—size 10
8410–00–NSH–6333—size 12
8410–00–NSH–6335—size 16
8410–00–NSH–6336—size 18
8410–00–NSH–6340—size 4
8410–00–NSH–6341—size 6
8410–00–NSH–6342—size 8

8410–00–NSH–6347—size 18
8410–00–NSH–6339—size 2
8410–00–NSH–6348—size 20
8410–00–NSH–6349—size 22
8410–00–NSH–6350—size 24
8410–00–NSH–6343—size 10
8410–00–NSH–6344—size 12
8410–00–NSH–6345—size 14
8410–00–NSH–6346—size 16
8410–00–NSH–6406—size 4
8410–00–NSH–6407—size 6
8410–00–NSH–6408—size 8
8410–00–NSH–6413—size 18
8410–00–NSH–6405—size 2
8410–00–NSH–6414—size 20
8410–00–NSH–6415—size 22
8410–00–NSH–6416—size 24
8410–00–NSH–6409—size 10
8410–00–NSH–6410—size 12
8410–00–NSH–6411—size 14
8410–00–NSH–6412—size 16
8410–00–NSH–6351—Small
8410–00–NSH–6377—Small Tall
8410–00–NSH–6354—X Large
8410–00–NSH–6380—X Large Tall
8410–00–NSH–6355—XX Large
8410–00–NSH–6381—XX Large Tall
8410–00–NSH–6382—XXX Large Tall
8410–00–NSH–6356—XXX Large
8410–00–NSH–6353—Large
8410–00–NSH–6379—Large Tall
8410–00–NSH–6352—Medium
8410–00–NSH–6378—Medium Tall
8410–00–NSH–6358—Small
8410–00–NSH–6384—Small Tall
8410–00–NSH–6361—X Large
8410–00–NSH–6387—X Large Tall
8410–00–NSH–6362—XX Large
8410–00–NSH–6388—XX Large Tall
8410–00–NSH–6363—XXX Large
8410–00–NSH–6389—XXX Large Tall
8410–00–NSH–6360—Large
8410–00–NSH–6386—Large Tall
8410–00–NSH–6359—Medium
8410–00–NSH–6385—Medium Tall
8410–00–NSH–6391—Small
8410–00–NSH–6392—Small Tall
8410–00–NSH–6397—X Large
8410–00–NSH–6398—X Large Tall
8410–00–NSH–6399—XX Large
8410–00–NSH–6400—XX Large Tall
8410–00–NSH–6401—XXX Large
8410–00–NSH–6402—XXX Large Tall
8410–00–NSH–6395—Large
8410–00–NSH–6396—Large Tall
8410–00–NSH–6393—Medium
8410–00–NSH–6394—Medium Tall
8405–00–NSH–1229—X Large
8405–00–NSH–1230—XX Large
8405–00–NSH–1231—XXX Large
8405–00–NSH–1228—Large
8405–00–NSH–1227—Medium
8405–00–NSH–1234—X Large
8405–00–NSH–1235—XX Large
8405–00–NSH–1236—XXX Large
8405–00–NSH–1233—Large
8405–00–NSH–1232—Medium
8405–00–NSH–1257—X Large
8405–00–NSH–1258—XX Large
8405–00–NSH–1345—XX Large Tall
8405–00–NSH–1259—XXX Large
8405–00–NSH–1346—XXX Large Tall
8405–00–NSH–1344—X Large Tall
8405–00–NSH–1255—Medium
8405–00–NSH–1256—Large
8405–00–NSH–1343—Large Tall
8405–00–NSH–1390—X Large
8405–00–NSH–1392—XX Large
8405–00–NSH–1394—XXX Large
8405–00–NSH–1388—Large
8405–00–NSH–1386—Medium
8405–00–NSH–1400—X Large
8405–00–NSH–1402—XX Large
8405–00–NSH–1404—XXX Large
8405–00–NSH–1398—Large
8405–00–NSH–1396—Medium
8405–00–NSH–1420—X Large
8405–00–NSH–1422—XX Large
8405–00–NSH–1424—XXX Large
8405–00–NSH–1418—Large
8405–00–NSH–1416—Medium
8405–00–NSH–1242—Knee Length, 44
8405–00–NSH–1241—Knee Length, 42
8405–00–NSH–1240—Knee Length, 40
8405–00–NSH–1239—Knee Length, 38
8405–00–NSH–1238—Knee Length, 36
8405–00–NSH–1237—Knee Length, 34
8405–00–NSH–1245—Knee Length, 50
8405–00–NSH–1244—Knee Length, 48
8405–00–NSH–1243—Knee Length, 46
8410–00–NSH–6365—Knee Length, X Small
8410–00–NSH–6366—Knee Length, Small
8410–00–NSH–6370—Knee Length, XX Large
8410–00–NSH–6367—Knee Length, Medium
8410–00–NSH–6368—Knee Length, Large
8405–00–NSH–1145—16–16.5 Neck, 34–35 Sleeve
8405–00–NSH–1140—14–14.5 Neck, 32–33 Sleeve
8405–00–NSH–1141—14–14.5 Neck, 33–34 Sleeve
8405–00–NSH–1142—15–15.5 Neck, 33–34 Sleeve
8405–00–NSH–1143—15–15.5 Neck, 34–35 Sleeve
8405–00–NSH–1144—16–16.5 Neck, 33–34 Sleeve
8405–00–NSH–1146—17–17.5 Neck, 34–35 Sleeve
8405–00–NSH–1147—17–17.5 Neck, 35–36 Sleeve
8405–00–NSH–1148—18–18.5 Neck, 35–36 Sleeve
8405–00–NSH–1149—18–18.5 Neck, 36–37 Sleeve
8405–00–NSH–1150—19–19.5 Neck, 36–37 Sleeve
8405–00–NSH–1151—19–19.5 Neck, 37–38 Sleeve
8405–00–NSH–1152—20–20.5 Neck, 37–38 Sleeve
8405–00–NSH–1153—20–20.5 Neck, 38–39 Sleeve
8405–00–NSH–1154—21–21.5 Neck, 38–39 Sleeve
8405–00–NSH–1155—21–21.5 Neck, 40–41 Sleeve
8405–00–NSH–1156—22–22.5 Neck, 40–41 Sleeve
8405–00–NSH–1157—22–22.5 Neck, 41–42 Sleeve

Contracting Activity: AMS 31C3, Washington, DC

8405–00–NSH–1215—Small
8405–00–NSH–1320—Small Tall
8405–00–NSH–1218—X Large
8405–00–NSH–1323—X Large Tall
8405–00–NSH–1219—XX Large
8405–00–NSH–1322—Large Tall
8405–00–NSH–1217—Large
8405–00–NSH–1216—Medium
8405–00–NSH–1321—Medium Tall
8405–00–NSH–1324—XX Large Tall
8405–00–NSH–1220—XXX Large
8405–00–NSH–1325—XXX Large Tall
8405–00–NSH–1221—Small
8405–00–NSH–1326—Small Tall
8405–00–NSH–1224—X Large
8405–00–NSH–1329—X Large Tall
8405–00–NSH–1223—Large
8405–00–NSH–1328—Large Tall
8405–00–NSH–1222—Medium
8405–00–NSH–1327—Medium Tall
8405–00–NSH–1225—XX Large
8405–00–NSH–1330—XX Large Tall
8405–00–NSH–1226—XXX Large
8405–00–NSH–1331—XXX Large Tall
8405–00–NSH–1272—Small Tall
8405–00–NSH–1170—X Large
8405–00–NSH–1275—X Large Tall
8405–00–NSH–1171—XX Large
8405–00–NSH–1169—Large
8405–00–NSH–1274—Large Tall
8405–00–NSH–1168—Medium
8405–00–NSH–1273—Medium Tall
8405–00–NSH–1167—Small
8405–00–NSH–1276—XX Large Tall
8405–00–NSH–1172—XXX Large
8405–00–NSH–1277—XXX Large Tall
8405–00–NSH–1278—Small Tall
8405–00–NSH–1176—X Large
8405–00–NSH–1281—X Large Tall
8405–00–NSH–1177—XX Large
8405–00–NSH–1175—Large
8405–00–NSH–1279—Medium Tall
8405–00–NSH–1280—Large Tall
8405–00–NSH–1174—Medium
8405–00–NSH–1178—XXX Large
8405–00–NSH–1283—XXX Large Tall
8405–00–NSH–1282—XX Large Tall
8405–00–NSH–1173—Small
8405–00–NSH–1284—Small Tall
8405–00–NSH–1287—X Large Tall
8405–00–NSH–1183—XX Large
8405–00–NSH–1181—Large
8405–00–NSH–1182—X Large
8405–00–NSH–1286—Large Tall
8405–00–NSH–1180—Medium
8405–00–NSH–1285—Medium Tall
8405–00–NSH–1179—Small
8405–00–NSH–1184—XXX Large
8405–00–NSH–1289—XXX Large Tall
8405–00–NSH–1288—XX Large Tall
8405–00–NSH–1290—Small Tall
8405–00–NSH–1188—X Large
8405–00–NSH–1293—X Large Tall
8405–00–NSH–1189—XX Large
8405–00–NSH–1187—Large
8405–00–NSH–1292—Large Tall
8405–00–NSH–1186—Medium
8405–00–NSH–1291—Medium Tall
8405–00–NSH–1185—Small
8405–00–NSH–1294—XX Large Tall
8405–00–NSH–1190—XXX Large
8405–00–NSH–1295—XXX Large Tall
8405–00–NSH–1296—Small Tall
8405–00–NSH–1194—X Large
8405–00–NSH–1299—X Large Tall
8405–00–NSH–1195—XX Large
8405–00–NSH–1193—Large
8405–00–NSH–1298—Large Tall
8405–00–NSH–1192—Medium
8405–00–NSH–1297—Medium Tall
8405–00–NSH–1191—Small
8405–00–NSH–1300—XX Large Tall

8405–00–NSH–1196—XXX Large
8405–00–NSH–1301—XXX Large Tall
8405–00–NSH–1302—Small Tall
8405–00–NSH–1200—X Large
8405–00–NSH–1305—X Large Tall
8405–00–NSH–1201—XX Large
8405–00–NSH–1199—Large
8405–00–NSH–1304—Large Tall
8405–00–NSH–1198—Medium
8405–00–NSH–1303—Medium Tall
8405–00–NSH–1197—Small
8405–00–NSH–1306—XX Large Tall
8405–00–NSH–1202—XXX Large
8405–00–NSH–1307—XXX Large Tall
8405–00–NSH–1308—Small Tall
8405–00–NSH–1206—X Large
8405–00–NSH–1207—XX Large
8405–00–NSH–1311—X Large Tall
8405–00–NSH–1205—Large
8405–00–NSH–1310—Large Tall
8405–00–NSH–1204—Medium
8405–00–NSH–1309—Medium Tall
8405–00–NSH–1203—Small
8405–00–NSH–1312—XX Large Tall
8405–00–NSH–1313—XXX Large Tall
8405–00–NSH–1208—XXX Large
8405–00–NSH–1314—Small Tall
8405–00–NSH–1212—X Large
8405–00–NSH–1317—X Large Tall
8405–00–NSH–1213—XX Large
8405–00–NSH–1209—Small
8405–00–NSH–1211—Large
8405–00–NSH–1316—Large Tall
8405–00–NSH–1210—Medium
8405–00–NSH–1315—Medium Tall
8405–00–NSH–1318—XX Large Tall
8405–00–NSH–1214—XXX Large
8405–00–NSH–1319—XXX Large Tall
8405–00–NSH–1410—X Large
8405–00–NSH–1408—Large
8405–00–NSH–1406—Medium
8405–00–NSH–1412—XX Large
8405–00–NSH–1414—XXX Large

Contracting Activity: USDA APHIS MRPBS, MINNEAPOLIS, MN

Mandatory Source(s) of Supply: Human Technologies Corporation, Utica, NY

Amy B. Jensen,

Director, Business Operations.

[FR Doc. 2017–26504 Filed 12–7–17; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete products from the Procurement List that that were previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* January 7, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s):
7510–00–NIB–1784—Portfolio Pad Holder, with Pad, Custom Logo & Color, 4″ x 6″
7510–00–NIB–1785—Portfolio Pad Holder, with pad, Custom Logo & Color, 6″ x 9″

Mandatory Source(s) of Supply: Alphapointe, Kansas City, MO

Contracting Activity: General Services Administration, New York, NY

NSN(s)—Product Name(s):
7510–01–642–8626—Kit, Maintenance, Remanufactured, Toner Cartridge, Lexmark T620/620N Series Compatible
7510–01–633–7855—Toner Cartridge, Remanufactured, Lexmark E230/E232/E234/E330/E332/E340/E342 Series Compatible
7510–01–633–7853—Toner Cartridge, Remanufactured, Lexmark Optra T620/T622 Series Compatible
7510–01–641–9550—Toner Cartridge, Remanufactured Lexmark Optra T630/T632/T634 Series Compatible
7510–01–560–6576—Remanufactured HP LJ Toner Cartridge—OEM C3909A
7510–01–560–6233—Remanufactured HP LJ Toner Cartridge—OEM C7115X

Mandatory Source(s) of Supply: TRI Industries NFP, Vernon Hills, IL

Contracting Activity: General Services Administration, New York, NY

Amy B. Jensen,

Director, Business Operations.

[FR Doc. 2017–26503 Filed 12–7–17; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0012; OMB Control Number 0704–0259]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by January 8, 2018.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 216, Types of Contracts, and related clauses in Part 252.216; OMB Control Number 0704–0259.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision of a currently approved collection.

Reporting Frequency: On occasion.

Number of Respondents: 132.

Responses per Respondent: 4.04, approximately.

Annual Responses: 533.

Average Burden per Response: 4 hours.

Annual Burden Hours: 2,132.

Needs and Uses: The clauses at DFARS 252.216–7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products; DFARS 252.216–7001, Economic Price Adjustment—Nonstandard Steel Items, and DFARS 252.216–7003, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government, require contractors with fixed-price economic price adjustment contracts to submit information to the contracting officer regarding changes in established material prices or wage rates. The contracting officer uses this information to make appropriate adjustments to contract prices.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD

Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Jennifer L. Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2017–26500 Filed 12–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–55]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107, *pamela.a.young14.civ@mail.mil* or Kathy Valadez, (703) 697–9217, *kathy.a.valadez.civ@mail.mil;* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17–55 with attached Policy Justification and Sensitivity of Technology.

Dated: December 4, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

NOV 2 8 2017

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-55, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Poland for defense articles and services estimated to cost $250 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 17–55

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Poland

(ii) *Total Estimated Value:*

Major Defense Equipment *	$249 million
Other	$ 1 million
TOTAL	$250 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE): Up to one hundred fifty (150) AIM–120C–7 Advanced Medium Range Air-to-Air Missiles (AMRAAM)

Non-MDE: Also included are missile containers, weapon system support, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (PL–D–1AE)

(v) *Prior Related Cases, if any:* PL–D–YAE

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* November 28, 2017

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Poland—AIM–120C–7 Advanced Medium Range Air-to-Air Missiles (AMRAAM)

The Government of Poland has requested to purchase up to one hundred fifty (150) AIM–120C–7 Advanced Medium Range Air-to-Air Missiles (AMRAAM). Also included are missile containers, weapon system support, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost is $250 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a NATO ally. Poland continues to be an important force for political stability and economic progress in Central Europe.

This potential sale would support Poland's F–16 fighter program and enhances Poland's ability to provide for its own territorial defense and support coalition operations. Poland previously purchased the AIM–120C–7 missile and will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Raytheon Missile Systems, Tucson, AZ. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Poland.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17–55

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AIM–120C–7 Advanced Medium Range Air-to-Air Missile (AMRAAM) is a guided missile featuring digital technology and micro-miniature solid-state electronics. The AMRAAM capabilities include look-down/shoot-down, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high- and low-flying and maneuvering targets. The AMRAAM is classified CONFIDENTIAL. The major components and subsystems range from UNCLASSIFIED to CONFIDENTIAL and technical data and other documentation are classified up to SECRET.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that Poland can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary to further the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed on this transmittal are authorized for release and export to the Government of Poland.

[FR Doc. 2017–26452 Filed 12–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2017–HA–0064]

Submission for OMB Review; Comment Request

AGENCY: Defense Health Agency, Department of Defense.

ACTION: 14-day emergency information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by December 22, 2017.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Cortney Higgins, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: TRICARE Select Enrollment, Disenrollment, and Change Form, DD Form 3043, OMB Control Number 0720–XXXX.

Type of Request: Emergency

Number of Respondents: 99,300

Responses per Respondent: 1

Annual Responses: 99,300

Average Burden per Response: 15 minutes

Annual Burden Hours: 24,825

Needs and Uses: The information collection requirement is necessary to obtain each non-active duty TRICARE beneficiary's personal information needed to: (1) Complete his/her enrollment into the TRICARE Select health plan option, (2) dis-enroll a beneficiary, or (3) change a beneficiary's enrollment information (*e.g.,* address, add a dependent, report other health insurance). This information is required to ensure the beneficiary's TRICARE benefits and claims are administered based on their TRICARE plan of choice. Without this new enrollment form, each

non-active duty TRICARE beneficiary is automatically defaulted into direct care, limiting their health care options to military hospitals and clinics. These beneficiaries would have no TRICARE coverage when using the TRICARE network of providers for services not available at their local military hospital or clinic.

Affected Public: Individuals or Households.

Frequency: On occasion

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Cortney Higgins.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: December 5, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–26513 Filed 12–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–64]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107, *pamela.a.young14.civ@mail.mil* or Kathy Valadez, (703) 697–9217, *kathy.a.valadez.civ@mail.mil;* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17–64 with attached Policy Justification and Sensitivity of Technology.

Dated: December 4, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

NOV 2 8 2017

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-64, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Poland for defense articles and services estimated to cost $250 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 17–64

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Poland

(ii) *Total Estimated Value:*

Major Defense Equipment *	$215 million
Other	$ 35 million
Total	$250 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* High Mobility Artillery Rocket System (HIMARS)

Major Defense Equipment (MDE):

Sixteen (16) Guided Multiple Launch Rocket System (GMLRS) M31A1 Unitary

Nine (9) Guided Multiple Launch Rocket System (GMLRS) M30A1 Alternative Warhead

Sixty-one (61) Army Tactical Missile Systems (ATACMS) M57 Unitary

Non-MDE: Also included are eight (8) Universal Position Navigation Units (UPNU), thirty-four (34) Low Cost Reduced Range (LCRR) practice rockets, one thousand six hundred forty-two (1,642) Guidance and Control Section Assemblies for GMLRS, Missile Common Test Sets and Devices, testing Precision, Lightweight GPS Receivers (PLGR), support equipment, U.S. Government and contractor services, training, and other related elements of logistics and program support.

(iv) *Military Department:* Army (PL–B–UDD, PL–B–UDE)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* November 28, 2017

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Poland—High Mobility Artillery Rocket System (HIMARS)

The Government of Poland has requested to purchase sixteen (16) Guided Multiple Launch Rocket System (GMLRS) M31A1 Unitary, nine (9) Guided Multiple Launch Rocket System (GMLRS) M30A1 alternative warheads, sixty-one (61) Army Tactical Missile Systems (ATACMS) M57 Unitary. Also included are eight (8) Universal Position Navigation Units (UPNU), thirty-four (34) Low Cost Reduced Range (LCRR) practice rockets, one thousand six hundred forty-two (1,642) Guidance and Control Section Assemblies for GMLRS, Missile Common Test Sets and Devices, testing Precision, Lightweight GPS Receivers (PLGR), support equipment, U.S. Government and contractor services, training, and other related elements of logistics and program support. The estimated cost is $250 million.

This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve the security of a NATO ally which has been, and continues to be an important force for political stability and economic progress in Europe. This sale is consistent with U.S. initiatives to provide key allies in the region with modern systems that will enhance interoperability with U.S. forces and increase security.

Poland intends to use these defense articles and services to modernize its armed forces and expand its capability to strengthen its homeland defense and deter regional threats. This will contribute to Poland's military goals of updating capability while further enhancing interoperability with the United States and other allies. Poland will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin in Grand Prairie, TX. This FMS case will support the parallel Direct Commercial Sale (DCS) between Lockheed Martin and Polska Grupa Zbrojenjowa (PGZ), the prime contractor for this effort in Poland. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require U.S. Government or contractor representatives to travel to Poland for program management reviews to support the program. Travel is expected to occur approximately twice per year as needed to support equipment fielding and training.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17–64

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The High Mobility Artillery Rocket Systems (HIMARS) is a highly mobile, all-weather indirect area fire artillery system. The HIMARS mission is to supplement cannon artillery to deliver a large volume of firepower within a short time against critical time-sensitive targets. At shorter ranges, HIMARS complements tube artillery with heavy barrages against assaulting forces as well as in the counter-fire, or defense suppression roles. The highest level of classified information that could be disclosed by a proposed sale, production, or by testing of the end item is SECRET; the highest level that must be disclosed for production, maintenance, or training is CONFIDENTIAL. Reverse engineering could reveal SECRET information. Launcher platform software, weapon operational software, command and control special application software, and command and control loadable munitions module software are considered UNCLASSIFIED. The system specifications and limitations are classified SECRET. Vulnerability data is classified up to SECRET. Countermeasures, counter-countermeasures, vulnerability/susceptibility analyses, and threat definitions are classified SECRET.

2. Guided Multiple Launch Rocket System (GMLRS) Unitary M31A1 uses a Unitary High Explosive (HE) 200 pound class warhead along with GPS aided IMU based guidance and control for ground-to-ground precision point targeting. The GMLRS Unitary uses an Electronic Safe and Arm Fuze (ESAF) along with a nose mounted proximity sensor to give enhanced effectiveness to the GMLRS Unitary rocket by providing tri-mode warhead functionality with point detonate, point detonate with programmable delay, or Height of Burst proximity function. GMLRS Unitary M31A1 end-item is comprised of a Rocket Pod Container (RPC) and six GMLRS Unitary Rocket(s). The RPC is capable of holding six (6) GMLRS Unitary Rockets and can be loaded in a M270A1 launcher (tracked), HIMARS M142 launcher, or European M270 (203 configuration that meets the GMLRS interface requirements) launcher from which the GMLRS rocket can be launched. The highest classification level for release of the GMLRS Unitary is SECRET, based upon the software, sale or testing of the end item. The highest level of classification that must be disclosed for production, maintenance, or training is CONFIDENTIAL.

3. Guided Multiple Launch Rocket System Alternative Warhead (GMLRS–AW) M30A1. The GMLRS–AW, M30A1, is the next design increment of the GMLRS rocket. The GMLRS–AW M30A1 hardware is over 90% common with the M31A1 GMLRS Unitary

hardware. Operational range is between 15–70 kilometers. Accuracy of less than 15 meters Circular Error Probability at all ranges, when using inertial guidance with Global Positioning System (GPS) augmentation. Uses a proximity sensor fuze mode with a 10 meter height of burst. The Alternative Warhead carries a 200 pound fragmentation assembly filled with high explosives which, upon detonation, accelerates two layers of pre-formed tungsten fragments optimized for effectiveness against large area and imprecisely located targets. The GMLRS–AW provides an area target attack capability that is treaty compliant (no un-exploded ordnance). It provides a 24 hour, all weather, long range attack capability against personnel, soft and lightly armored targets, and air defense targets. The GMLRS–AW uses the same motor, guidance and control systems fuze mechanisms, and proximity sensors as the M31A1 GMLRS Unitary. The highest classification level for release of the GMLRS–AW is SECRET, based upon the software, sale or testing of the end item. The highest level of classification that must be disclosed for production, maintenance, or training is CONFIDENTIAL.

4. The highest classification level for release of the ATACMS Unitary M57 FMS Variant is SECRET, based upon the software. The highest level of classified information that could be disclosed by a sale or by testing of the end item is SECRET; the highest level that must be disclosed for production, maintenance, or training is CONFIDENTIAL. Reverse engineering could reveal CONFIDENTIAL information. Fire Direction System, Data Processing Unit, and special Application software is classified SECRET. Communications Distribution Unit software is classified CONFIDENTIAL. The system specifications and limitations are classified CONFIDENTIAL. Vulnerability Data, countermeasures, vulnerability/susceptibility analyses, and threat definitions are classified SECRET or CONFIDENTIAL.

5. The GPS Precise Positioning Service (PPS) component of the HIMARS munitions (GMLRS Unitary, Alternative Warhead, and ATACMS Unitary) is also contained in the launcher Fire Direction System, is classified SECRET, and is considered SENSITIVE. The GMLRS M30A1, M31A1, ATACMS M57 and HIMARS M142 launchers employ an inertial navigational system that is aided by a Selective Availability Anti-Spoofing Module (SAASM) equipped GPS receiver.

6. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software, the information could be used to develop countermeasures, which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

7. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the enclosed Military Policy Justification. A determination has been made that Poland can provide the same degree of protection for the sensitive technology being released as the U.S. Government.

8. All defense articles and services listed in this transmittal have been authorized for release and export to Poland.

[FR Doc. 2017–26454 Filed 12–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–0A]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107, *pamela.a.young14.civ@mail.mil* or Kathy Valadez, (703) 697–9217, *kathy.a.valadez.civ@mail.mil;* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(5)(C) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17–0A.

Dated: December 5, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

DEC 01 2017

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 17-0A. This report relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 09-36 of July 17, 2009.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal

BILLING CODE 5001–06–C

Transmittal No. 17–0A

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) *Purchaser:* Australia
(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 09–36
Date: 17 July 2009
Military Department: Air Force
(iii) *Description:* On 17 July 2009, Congress was notified by Congressional certification transmittal number 09–36 of the Government of Australia's request to continue participation in the USAF/Boeing Globemaster III Sustainment Partnership (GSP), which consists of support for Australia's fleet of four (4) Boeing C–17A Globemaster III cargo aircraft, contractor technical and logistics support services, support equipment, spare and repair parts, and other related elements of logistics support. The estimated cost is $300 million. Major Defense Equipment (MDE) constituted $0 million of the total cost.

Transmittal 14–0C reported the inclusion of additional Contractor Logistics Support for Australia's fleet of C–17 Globemaster III cargo aircraft, which had increased from four (4) to six (6). This change did not result in any increase in MDE, but increased the total case value from $300 to $450 million.

This transmittal reports the further inclusion of additional funding to maintain Australia's participation in the USAF/Boeing Globemaster III Sustainment Partnership (GSP) through 2022. Additionally, Australia's fleet of C–17A Globemaster III cargo aircraft has increased from six (6) to eight (8). Support includes contractor technical and logistics support services, support equipment, spare and repair parts, and other related elements of logistics support. The case value will increase from $450 million to $850 million but will not result in an increase in the value of MDE.

(iv) *Significance:* The proposed sale will allow Australia to effectively maintain its current force projection

capability that enhances interoperability with U.S. forces well into the future.

(v) *Justification:* This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of an important major non-NATO ally and partner which contributes significantly to peacekeeping, humanitarian, and combat operations around the world.

(vi) *Date Report Delivered to Congress:* December 1, 2017

[FR Doc. 2017–26491 Filed 12–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–180–000.
Applicants: American Electric Power Service Corporation, AEP West Virginia Transmission Company, Inc.
Description: Amendment to September 15, 2017 Application Under Section 203 of the Federal Power Act to Acquire Transmission Facilities and Request for Certain Waivers of American Electric Power Service Corporation, et al.
Filed Date: 12/4/17.
Accession Number: 20171204–5080.
Comments Due: 5 p.m. ET 12/14/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2964–015.
Applicants: Selkirk Cogen Partners, L.P.
Description: Notice of Non-Material Change of Selkirk Cogen Partners, L.P.
Filed Date: 12/1/17.
Accession Number: 20171201–5373.
Comments Due: 5 p.m. ET 12/22/17.

Docket Numbers: ER14–695–006.
Applicants: Entergy Services, Inc.
Description: Compliance filing: LBA Compliance Errata ER14–695 12–1–2017 to be effective 12/19/2013.
Filed Date: 12/1/17.
Accession Number: 20171201–5271.
Comments Due: 5 p.m. ET 12/22/17.

Docket Numbers: ER14–700–008.
Applicants: Entergy Services, Inc.
Description: Compliance filing: LBA Compliance Errata ER14–700 12–1–2017 to be effective 12/19/2013.
Filed Date: 12/1/17.
Accession Number: 20171201–5264.
Comments Due: 5 p.m. ET 12/22/17.

Docket Numbers: ER18–374–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Attachment Z2 Tariff Revisions to be effective 2/1/2018.
Filed Date: 12/1/17.
Accession Number: 20171201–5309.
Comments Due: 5 p.m. ET 12/22/17.

Docket Numbers: ER18–375–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2017–12–01 Aliso Canyon Emergency Gas-Electric Coorindation Amendment to be effective 12/16/2017.
Filed Date: 12/1/17.
Accession Number: 20171201–5313.
Comments Due: 5 p.m. ET 12/11/17.

Docket Numbers: ER18–376–000.
Applicants: Cogen Technologies Linden Venture, L.P.
Description: Compliance filing: Updates to MBR Tariff to be effective 12/5/2017.
Filed Date: 12/4/17.
Accession Number: 20171204–5050.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–377–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA SA No. 3183; Queue No. W3–029 to be effective 11/10/2014.
Filed Date: 12/4/17.
Accession Number: 20171204–5082.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–378–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: 12012017_5th Revised IREA PPA to be effective 12/5/2017.
Filed Date: 12/4/17.
Accession Number: 20171204–5090.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–379–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: 2017–12–04_SA 3068 Ameren-Hannibal Construction Agreement (#2) to be effective 11/5/2017.
Filed Date: 12/4/17.
Accession Number: 20171204–5091.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–380–000.
Applicants: Talen Energy Marketing, LLC.
Description: Request for Limited Waiver of Talen Energy Marketing, LLC.
Filed Date: 12/4/17.
Accession Number: 20171204–5094.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–381–000.
Applicants: Southwest Power Pool, Inc.
Description: Petition for Waiver of Tariff Provisions of Southwest Power Pool, Inc.
Filed Date: 12/4/17.
Accession Number: 20171204–5095.
Comments Due: 5 p.m. ET 12/26/17.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–12–000.
Applicants: GridLiance West Transco LLC.
Description: Application For Certain Authorization Under Section 204 of the Federal Power Act of GridLiance West Transco LLC.
Filed Date: 12/1/17.
Accession Number: 20171201–5378.
Comments Due: 5 p.m. ET 12/22/17.

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: December 4, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26497 Filed 12–7–17; 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: RP18–224–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Capacity Release Agreements—12/1/2017 to be effective 12/1/2017.
Filed Date: 12/1/17.
Accession Number: 20171201–5029.

Comments Due: 5 p.m. ET 12/13/17.

Docket Numbers: RP18–225–000.

Applicants: Portland Natural Gas Transmission System.

Description: § 4(d) Rate Filing: C2C Negotiated Rate Agreements to be effective 12/1/2017.

Filed Date: 12/1/17.

Accession Number: 20171201–5065.

Comments Due: 5 p.m. ET 12/13/17.

Docket Numbers: RP18–226–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: AVC Retainage Tracker to be effective 1/1/2018.

Filed Date: 12/1/17.

Accession Number: 20171201–5079.

Comments Due: 5 p.m. ET 12/13/17.

Docket Numbers: RP18–227–000.

Applicants: Cameron Interstate Pipeline, LLC.

Description: Compliance filing Cameron Interstate Pipeline Annual Adjustment of Fuel Retainage Percentage to be effective 1/1/2018.

Filed Date: 12/1/17.

Accession Number: 20171201–5176.

Comments Due: 5 p.m. ET 12/13/17.

Docket Numbers: RP18–228–000.

Applicants: Rockies Express Pipeline LLC.

Description: § 4(d) Rate Filing: Revisions to Provisions for FL&U and Power Cost Tracker to be effective 4/1/2018.

Filed Date: 12/1/17.

Accession Number: 20171201–5195.

Comments Due: 5 p.m. ET 12/13/17.

Docket Numbers: RP18–229–000.

Applicants: Rockies Express Pipeline LLC.

Description: § 4(d) Rate Filing: Administrative Updates to Tariff to be effective 1/1/2018.

Filed Date: 12/1/17.

Accession Number: 20171201–5265.

Comments Due: 5 p.m. ET 12/13/17.

Docket Numbers: RP18–230–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Access South Adair Southwest Lebanon Extension Compliance Filing to be effective 1/1/2018.

Filed Date: 12/1/17.

Accession Number: 20171201–5274.

Comments Due: 5 p.m. ET 12/13/17.

Docket Numbers: RP18–231–000.

Applicants: Sierrita Gas Pipeline LLC.

Description: § 4(d) Rate Filing: Non-Conforming Agreement Filing (CFEI) to be effective 1/1/2018.

Filed Date: 12/1/17.

Accession Number: 20171201–5310.

Comments Due: 5 p.m. ET 12/13/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 4, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26498 Filed 12–7–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12496–002]

Rugraw, LLC; Notice of Availability of the Draft Environmental Impact Statement for the Lassen Lodge Hydroelectric Project and Intention To Hold Public Meetings

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for license for the Lassen Lodge Hydroelectric Project (FERC No. 12496–002), to be located on the upper South Fork Battle Creek in Tehama County, California, and has prepared a draft Environmental Impact Statement (EIS) for the project. The project would occupy no federal land or Indian reservations.

The draft EIS contains staff's evaluations of the applicant's proposal and the alternatives for licensing the proposed Lassen Lodge Hydroelectric Project. The draft EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicant, and Commission staff.

A copy of the draft EIS is available for review in the Commission's Public Reference Branch, Room 2A, located at 888 First Street NE., Washington, DC 20426. The draft EIS also may be viewed on the Commission's Web site at *http://www.ferc.gov* under the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

All comments must be filed by Friday, February 2, 2018.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–12496–002.

Anyone may intervene in this proceeding based on this draft EIS (18 CFR 380.10). You must file your request to intervene as specified above.[1] You do not need intervenor status to have your comments considered.

In addition to or in lieu of sending written comments, we will hold two public meetings to receive comments on the draft EIS. A daytime meeting will focus on comments of the resource agencies, NGOs, and Indian tribes, and an evening meeting will focus on receiving input from the public. We invite all interested agencies, Indian tribes, NGOs, and individuals to attend one or both of the meetings. The time and location of the meetings is as follows:

Daytime Meeting

Date: Wednesday, January 3, 2018.

Time: 9:00 a.m.

Location: Holiday Inn Express, 2810 Main Street, Red Bluff, CA 96080.

Evening Meeting

Date: Wednesday, January 3, 2018.

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

Time: 7:00 p.m.

Location: Holiday Inn Express, 2810 Main Street, Red Bluff, CA 96080.

At the meetings, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the draft EIS. The meeting will be recorded by a court reporter, and all statements (verbal and written) will become part of the Commission's public record for the project. This meeting is posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

For further information, contact Kenneth Hogan at (202) 502–8434 or at *Kenneth.Hogan@ferc.gov.*

Dated: December 4, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26499 Filed 12–7–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0141; FRL–9971–01]

Certain New Chemicals or Significant New Uses; Statements of Findings for August and September 2017

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(g) of the Toxic Substances Control Act (TSCA) requires EPA to publish in the **Federal Register** a statement of its findings after its review of TSCA section 5(a) notices when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to premanufacture notices (PMNs), microbial commercial activity notices (MCANs), and significant new use notices (SNUNs) submitted to EPA under TSCA section 5. This document presents statements of findings made by EPA on TSCA section 5(a) notices during the period from August 1, 2017 to September 30, 2017.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Greg Schweer, Chemical Control Divison (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8469; email address: *schweer.greg@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. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the PMNs addressed in this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0141, 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.*

II. What action is the Agency taking?

This document lists the statements of findings made by EPA after review of notices submitted under TSCA section 5(a) that certain new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment. This document presents statements of findings made by EPA during the period from August 1, 2017 to September 30, 2017.

III. What is the Agency's authority for taking this action?

TSCA section 5(a)(3) requires EPA to review a TSCA section 5(a) notice and make one of the following specific findings:

- The chemical substance or significant new use presents an unreasonable risk of injury to health or the environment;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the chemical substance or significant new use;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects and the chemical substance or significant new use may present an unreasonable risk of injury to health or the environment;
- The chemical substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance; or
- The chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment.

Unreasonable risk findings must be made without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant under the conditions of use. The term ''conditions of use'' is defined in TSCA section 3 to mean ''the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.''

EPA is required under TSCA section 5(g) to publish in the **Federal Register** a statement of its findings after its review of a TSCA section 5(a) notice when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to PMNs, MCANs, and SNUNs submitted to EPA under TSCA section 5.

Anyone who plans to manufacture (which includes import) a new chemical substance for a non-exempt commercial purpose and any manufacturer or processor wishing to engage in a use of a chemical substance designated by EPA as a significant new use must submit a notice to EPA at least 90 days before commencing manufacture of the new chemical substance or before engaging in the significant new use.

The submitter of a notice to EPA for which EPA has made a finding of ''not likely to present an unreasonable risk of injury to health or the environment'' may commence manufacture of the chemical substance or manufacture or processing for the significant new use notwithstanding any remaining portion of the applicable review period.

IV. Statements of Administrator Findings Under TSCA Section 5(a)(3)(C)

In this unit, EPA provides the following information (to the extent that such information is not claimed as Confidential Business Information (CBI)) on the PMNs, MCANs and SNUNs for which, during this period, EPA has made findings under TSCA section 5(a)(3)(C) that the new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment:

- EPA case number assigned to the TSCA section 5(a) notice.
- Chemical identity (generic name, if the specific name is claimed as CBI).
- Web site link to EPA's decision document describing the basis of the ''not likely to present an unreasonable risk'' finding made by EPA under TSCA section 5(a)(3)(C).

EPA Case Number: P–17–0190; *Chemical identity:* Butanoic acid, 3-oxo-, 2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl ester, polymer with cycloalkyl 2-methyl-2-propenoate, ethenylbenzene, 2-ethylhexyl 2-propenoate, methyl 2-methyl-2-propenoate and 2-methylpropyl 2-methyl-2- propenoate (generic name); *Web site link: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-76.*

EPA Case Number: P–16–0508; *Chemical identity:* Terephthalic acid and alcohol ester polymer hydroxy glycol and 2-Ethylhexyl alcohol; polymer exemption flag (generic name); *Web site link: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-74.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: November 20, 2017.

Greg Schweer,

Chief, New Chemicals Management Branch, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–26520 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–009; FRL–9971–02]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted or denied emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions or denials were granted during the period July 1, 2017 to September 30, 2017 to control unforeseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the emergency exemption or denial.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0009, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

II. Background

EPA has granted or denied emergency exemptions to the following State agencies. There were no emergency exemptions from any Federal agencies during the time period covered by this notice (July 1, 2017 through September 30, 2017).

The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. EPA has also listed denied emergency exemption requests in this notice.

Under FIFRA section 18 (7 U.S.C. 136p), EPA can authorize the use of a pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A ''specific exemption'' authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.

2. ''Quarantine'' and ''public health'' exemptions are emergency exemptions issued for quarantine or public health purposes. These are rarely requested.

3. A ''crisis exemption'' is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in ''a reasonable certainty of no harm'' to human health, including exposure of residues of the pesticide to infants and children.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the ''reasonable certainty of no harm standard'' of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document: EPA identifies the agency granted the exemption or denial, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, number of acres (if applicable), and the duration of the exemption. EPA also gives the citation in Title 40 of the Code of Federal Regulations (40 CFR) for the time-limited tolerance(s), if any.

III. Emergency Exemptions and Denials

A. U.S. States and Territories

American Samoa

Department of Health

Crisis exemption: On July 14, 2017 the American Samoa Department of Health declared a crisis exemption for use of deltamethrin for control of *Aedes* species of mosquito, vectors of the Zika virus, in outdoor residential areas. Effective July 14, 2017 to July 29, 2017.

California

Department of Pesticide Regulation

Crisis exemption: On July 21, 2017, the California Department of Pesticide Regulation declared a crisis exemption for the use of sulfoxaflor on a maximum of 270,000 acres of cotton to control the tarnished plant bug. The use season is expected to last until October 31, 2017, and a specific request was also submitted.

Specific exemptions: EPA authorized the use of bifenthrin on a maximum of 18,000 acres of pomegranates to control the leaf-footed plant bug. A time-limited tolerance in connection with this action has been established in 40 CFR 180.442(b). August 8, 2017 to December 31, 2017.

EPA authorized the use of sulfoxaflor on a maximum of 270,000 acres of cotton to control the tarnished plant bug. Permanent tolerances in connection with an earlier registration action are established in 40 CFR 180.668(a). August 15, 2017 to October 31, 2017.

EPA authorized the use of flonicamid on a maximum of 365 acres of prickly pear cactus fruit and nopalitos (pads) to control the cochineal scale insect. Time-limited tolerances in connection with this action will be established in 40 CFR 180.613(b). August 15, 2017 to August 15, 2018.

Hawaii

Department of Agriculture

Specific exemption: EPA authorized the use of tolfenpyrad on a maximum of 500 acres of watermelon to control melon thrips. A time-limited tolerance in connection with this action has been established in 40 CFR 180.675(b). Effective August 28, 2017 to August 28, 2018.

Idaho State

Department of Agriculture

Specific exemption: EPA authorized the use of pyridate on a maximum of 9,500 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

Indiana

Office of the Indiana State Chemist

Specific exemption: EPA authorized the use of pyridate on a maximum of 11,200 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

Kentucky

Department of Agriculture

Specific exemption: EPA authorized the use of sulfoxaflor on a maximum of 13,000 acres of sorghum (grain and forage) to control sugarcane aphid. Time-limited tolerances in connection with this action have been established in 40 CFR 180.668(b). July 28, 2017 to November 30, 2017.

Michigan

Department of Agriculture

Specific exemption: EPA authorized the use of pyridate on a maximum of 11,250 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

EPA denied a specific exemption request for the use of chlorothalonil in sugar beets for control of Cercospora leaf spot. The request was denied because EPA is unable to make a ''reasonable certainty of no harm'' determination at this time, which is required to allow additional uses of chlorothalonil. July 24, 2017.

Minnesota

Department of Agriculture

EPA denied a specific exemption request for the use of chlorothalonil in sugar beets for control of Cercospora leaf spot. The request was denied because EPA is unable to make a ''reasonable certainty of no harm'' determination at this time, which is required to allow additional uses of chlorothalonil. July 24, 2017.

New Jersey

Department of Agriculture

Specific exemptions: EPA authorized the use of bifenthrin on a maximum of 8,200 acres of apples, peach, and nectarines, to control the brown marmorated stink bug. Time-limited tolerances in connection with this action have been established in 40 CFR 180.442(b). Effective September 8, 2017 to October 15, 2017.

North Dakota

Department of Agriculture

EPA denied a specific exemption request for the use of chlorothalonil in sugar beets for control of Cercospora leaf spot. The request was denied because EPA is unable to make a ''reasonable certainty of no harm'' determination at this time, which is required to allow additional uses of chlorothalonil. July 24, 2017.

Oregon

Department of Agriculture

Specific exemption: EPA authorized the use of pyridate on a maximum of 5,200 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

Washington

Department of Agriculture

Crisis exemption: On the July 14, 2017 the Washington Department of Agriculture declared a crisis exemption for use of lambda-cyhalothrin on asparagus to control the European asparagus aphid. The use season was expected to last until October 31, 2017, and a specific exemption request was also submitted.

Specific exemptions: EPA authorized the use of sulfoxaflor on a maximum of 15,000 acres of alfalfa grown for seed to control lygus bugs. July 7, 2017 to August 31, 2017.

EPA authorized the use of pyridate on a maximum of 16,000 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

EPA authorized the use of lambda cyhalothrin on a maximum of 7,000 acres of asparagus to control the

European asparagus aphid, effective August 2, 2017 to October 31, 2017. As required by 40 CFR 166.24, because an emergency exemption for this use has been requested for more than 5 years and an application for registration has not yet been received by EPA, a Notice of Receipt with opportunity for public comment published in the **Federal Register**, on July 10, 2017 (82 FR 31777) (FRL–9963–16) with public comment period closing on July 25, 2017.

Wisconsin

Department of Agriculture

Specific exemption: EPA authorized the use of pyridate on a maximum of 3,100 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

Wyoming

Department of Agriculture

Specific exemption: EPA authorized the use of indaziflam on a maximum of 300,000 acres of rangeland, pastures, and Conservation Reserve Program to control medusahead and ventenata. Time-limited tolerances in connection with this action will be established in 40 CFR 180.653(b). September 14, 2017 to September 14, 2018.

Authority: 7 U.S.C. 136 *et seq.*

Dated: November 27, 2017.

Michael L. Goodis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2017–26521 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2017–0599; FRL–9971–44–OAR]

Proposed Information Collection Request; Comment Request; Recordkeeping and Reporting for the Renewable Fuel Standard Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Recordkeeping and Reporting for the Renewable Fuel Standard (RFS) Program,'' EPA ICR No. 2546.01, OMB Control No. 2060–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a request for approval of a new collection. 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.

DATES: Comments must be submitted on or before February 6, 2018.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2017–0599, online using *www.regulations.gov* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Anne-Marie Pastorkovich, Attorney/Advisor, Office of Air and Radiation/Office of Transportation and Air Quality, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., (6405A), Washington, DC 20460; telephone number: 202–343–9623; fax number: 202–343–2800; email address: *pastorkovich.anne-marie@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

This ICR package is a new information collection that is intended to streamline and update estimates related to RFS. This new collection includes elements of some existing RFS ICRs. The goal of this new, consolidated ICR is to put all RFS estimates into one, consistent, and easy-to-understand format. We hope that this single RFS ICR package will assist interested parties in better understanding all of the information collection activities associated with RFS.

What is the RFS program?

The RFS program was created under the Energy Policy Act of 2005 (EPAct), which amended the Clean Air Act (CAA). The Energy Independence and Security Act of 2007 (EISA) further amended the CAA by expanding the RFS program. EPA implements RFS in consultation with U.S. Department of Agriculture and the Department of Energy. The RFS program is a national policy that requires a certain volume of renewable fuel to replace or reduce the quantity of petroleum-based transportation fuel, heating oil or jet fuel.

Obligated parties under the RFS program are refiners or importers of gasoline or diesel fuel. Obligated parties, and exporters of renewable fuel, must meet an annual Renewable Volume Obligation (RVO). Parties meet their RVO by blending renewable fuels into transportation fuel, or by obtaining credits (called ''Renewable Identification Numbers'', or RINs). EPA calculates and establishes RVOs every year through rulemaking, based on the CAA volume requirements and projections of gasoline and diesel production for the coming year. The standards are converted into a percentage and obligated parties must

demonstrate compliance annually. RINs are the credits that obligated parties use to demonstrate compliance with the standard. RINS are generated by producers and importers of renewable fuels and traded by various parties. Obligated parties must obtain sufficient RINs for each category in order to demonstrate compliance with the annual standard.

In order to track compliance with the RFS program, various parties involved with the production and blending of renewable fuels, and who generate, trade or use RINs, must register with EPA and submit various types of compliance reports related to the activity they engage in under the program. Our estimates as to burden are explained in the supporting statement that has been placed in the public docket. Domestic and foreign entities may be subject to these regulations and to the associated information collection. The RFS program was developed with certain flexibilities, including for small entities such as small refiners and small refineries, small blenders, and small volume production facilities and importers.

What are the recordkeeping and reporting requirements associated with the RFS program?

The reporting requirements of the RFS program typically fall under registration and compliance reporting. Recordkeeping requirements include product transfer documents (PTDs) and retention of records that support items reported. Recordkeeping and reporting are based upon the role the party fills under the regulations. A party may be registered in more than one role. Basing the recordkeeping and reporting upon a party's roles in the program ensures that parties must sustain only the burden necessary under the program. EPA continuously assesses its registration and reporting systems in an effort to provide the best possible service to the regulated community and in order to enhance, simplify, and streamline the experience. Because RFS relies upon a marketplace of RINs, EPA has created and maintains the EPA Moderated Transaction System (EMTS) capable of handling a high volume of RIN trading activities.

Who are the respondents for the RFS program?

The respondents to this ICR are: RIN Generators (producers and importers of renewable fuel), Obligated Parties (refiners and importers of gasoline and diesel), Exporters (of renewable fuel), RIN Owners, independent third-party Quality Assurance Plan (QAP) Providers, and certain petitioners under the international aggregate compliance approach (such petitions are infrequent). These parties and their associated information collections are described in detail in the supporting statement and tables, which have been placed in the docket.

Which ICRs are being consolidated into this new collection?

This proposed ICR will supersede and replace existing information collection currently approved under the following titles and OMB control numbers (with expiration dates shown):

- Renewable Fuels Standard Program (RFS2-Supplemental), OMB Control Number 2060–0637; expires 10/31/2017;
- Renewable Fuel Standard (RFS2) Program, OMB Control Number 2060–0640; expires 10/31/2017;
- RFS2 Voluntary RIN Quality Assurance Program, OMB Control Number 2060–0688; expires 4/30/2019; and
- Cellulosic Production Volume Projections and Efficient Producer Reporting, OMB Control Number 2060–0707, expires 12/31/2019.

This proposed new ICR includes burdens associated with Renewable Fuel Pathways II and Technical Amendments to the RFS2 Standards, for which a final rule was published on July 18, 2014. 79 FR 42128. Although ICR estimates were prepared for the proposed rule, it appears they were not submitted to OMB with the final rule through an administrative error. This proposed new ICR also includes burdens associated with the following previously approved, but not currently approved, ICRs: Regulation of Fuel and Fuel Additives: 2011 Renewable Fuel Standards—Petition for International Aggregate Compliance Approach, OMB Control Number 2060–0655; expired 5/31/2017; and Production Outlook Report for Unregistered Renewable Fuels Producers, OMB Control Number 2060–0660; expired 7/31/2017.

Form Numbers: RFS0104: RFS Activity Report, RFS0303: RFS Annual Compliance Report, RFS0601: RFS Renewable Fuel Producer Supplemental Report, RFS0701: RFS Renewable Fuel Producer Co-Products Report, RFS0801: RFS Renewable Biomass Report, RFS0901: RFS Production Outlook Report, RFS1400: Reporting Fuels under 80.1451(b)(1)(ii)(T), RFS1500: Reporting Fuels under 80.1451(b)(1)(ii)(T)—Finished Fuel Blending, RFS1600: Reporting Fuels under 80.1451(b)(1)(ii)(T)—Blender Contact, RFS2000: Batch Verification, RFS2100: Aggregate RIN Verification. RFS2200: On-Site Audit Report, RFS2300: List of Potentially Invalid RINs, RFS2400: Mass Balance, RFS2500: RFS Efficient Producer Data Report, RFS2700: RFS Cellulosic Biofuel Producer Questionnaire, EMTS: RFS RIN Generation Report, EMTS: RFS RIN Transaction Report.

Respondents/affected entities: RIN Generators, Obligated Parties, RIN Owners, Exporters, QAP Providers, and Petitioners under the international aggregate compliance approach. These parties include producers and importers of renewable fuels and refiners and importers of gasoline and diesel transportation fuels.

Respondent's obligation to respond: The RFS program represents a mixture of voluntary and mandatory reporting, depending upon activity. A single party may register with multiple program roles—*e.g.,* a party might be both an obligated party and a RIN owner.

Estimated number of respondents: 20,425

Frequency of response: On occasion/daily, quarterly, annual.

Total estimated burden: 530,336 (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $52,845,438 (per year), includes $0 annualized capital or operation & maintenance costs.

Dated: November 27, 2017.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation & Air Quality, Office of Air & Radiation.

[FR Doc. 2017–26529 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9036–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www2.epa.gov/nepa/.*

Weekly receipt of Environmental Impact Statements (EIS).

Filed 11/27/2017 Through 12/01/2017

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search.*

EIS No. 20170236, Draft, USAF, NV, Nevada Test and Training Range

(NTTR) Land Withdrawal, Comment Period Ends: 03/08/2018, Contact: Mike Ackerman (210) 925–2741.

EIS No. 20170237, Final, TVA, KY, Shawnee Fossil Plant Coal Combustion Residual Management, Review Period Ends: 01/07/2018, Contact: Ashley Pilakowski (865) 632–2256.

Dated: December 5, 2017.

Kelly Knight,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2017–26490 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[9956–82–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of West Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of West Virginia's request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

DATES: EPA approves the State of West Virginia's authorized program revisions as of December 8, 2017.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On May 9, 2016, the West Virginia Department of Environmental Protection (WVDEP) submitted a revised application titled Environmental Submission System (ESS) for revisions/modifications to its EPA-approved programs under title 40 CFR to allow new electronic reporting. EPA reviewed WVDEP's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the revised application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve West Virginia's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR parts 50–52, 60–61, 63, 65, 122, 125, 144, 146, and 403–471 is being published in the **Federal Register**:

Part 52—Approval and Promulgation of Implementation Plans;

Part 60—Standards of Performance for New Stationary Sources;

Part 63—National Emission Standards for Hazardous Air Pollutants for Source Categories;

Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System;

Part 145—State Underground Injection Control Programs; and

Part 403—General Pretreatment Regulations for Existing and New Sources of Pollution.

WVDEP was notified of EPA's determination to approve its application with respect to the authorized programs listed above.

Matthew Leopard,

Director, Office of Information Management.

[FR Doc. 2017–26541 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2010–0690; FRL_9971–48–OAR)]

Agency Information Collection Activities; Proposed Collection; Comment Request; EPA's Light-Duty In-Use Vehicle Testing Program (Renewal); EPA ICR No. 0222.11, OMB Control No. 2060–0086.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on May 31, 2018. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before February 6, 2018.

ADDRESSES: Submit your comments referencing Docket ID No. EPA–HQ–OAR–2010–0690 online using *www.regulations.gov* (our preferred method), by email to *pugliese.holly@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mailcode 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Lynn Sohacki, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4851; fax number: 734–214–4869; email address: *sohacki.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301

Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: EPA has an ongoing program to evaluate the emissions performance of light-duty motor vehicles (*i.e.,* passenger cars and light trucks) after they have been introduced into commerce. This program, known as EPA's ''in-use'' program, operates in conjunction with other motor vehicle emissions testing programs conducted by the Agency and the light-duty motor vehicle manufacturers. These other test programs include confirmatory certification testing of prototype vehicles by manufacturers and EPA and the mandatory manufacturer in-use verification program (IUVP) . The Clean Air Act directs EPA to ensure that motor vehicles comply with emissions requirements throughout their useful lives. The primary purpose of EPA's in-use program is information gathering. Nevertheless, EPA can require a recall if it receives information, from whatever source, including in-use testing, that a ''substantial number'' of any class or category of vehicles or engines, although properly maintained and used, do not conform to the emission standards, when in actual use throughout their useful life.

The EPA in-use program can be broken down into three closely-related components. The first component involves the selection of approximately 40 classes of passenger cars and light trucks, totaling approximately 125 vehicles, for surveillance testing at EPA's National Vehicle and Fuel Emissions Laboratory (NVFEL.) In some cases, surveillance testing may be followed by confirmatory testing to develop additional information related to test failures observed in a class during surveillance testing. Confirmatory testing involves the selection of approximately one or two classes of 10 passenger cars and light trucks, averaging approximately 14 vehicles, for further testing, at EPA's NVFE. Confirmatory testing differs from surveillance testing in that the vehicles must meet stricter maintenance and use criteria. However, the emissions tests that are conducted are the same for surveillance and confirmatory testing. The second program component involves the testing of a subset of vehicles from the surveillance recruitment for operation of on-board diagnostics (OBD) systems. EPA does not currently recruit vehicles for OBD testing but includes the testing in this ICR in the event that OBD testing is resumed. The third component involves the special investigation of vehicles to address specific issues. The number of vehicles procured under this category varies widely from year to year. However, this information request does not ask for approval of the information burden corresponding to such vehicles because the vehicles for this program have not been procured from the public recently and, therefore, there is no information collection burden associated with this testing. Participation in the telephone screenings to identify qualifying light-duty vehicles, as well as the vehicle testing, is strictly voluntary. A group of 25 to 50 potential participants is identified from state vehicle registration records. These potential participants are asked to return a form indicating their willingness to participate and if so, to verify some limited vehicle information. Three of those who return the form are called and asked several screening questions concerning vehicle condition, operation and maintenance. Additional groups of potential participants may be contacted until a sufficient number of vehicles has been obtained. Owners verify the vehicle screening information when they deliver their vehicles to EPA or release the vehicle to EPA, voluntarily provide maintenance records for copying, receive a cash incentive and, if requested, a loaner car, and finally receive their vehicle from EPA at the conclusion of the testing.

Form Numbers: 5900–304, 5900–305, 5900–306, 5900–307, 5900–308, 5900–309.

Frequency of response: On Occasion.

Respondents/affected entities: A group of 25 to 50 potential participants is identified from state vehicle registration records. These potential participants are asked to return a form indicating their willingness to participate and if so, to verify some limited vehicle information. Three of those who return the form are called and asked several questions concerning vehicle condition, operation and maintenance. Additional groups of potential participants may be contacted until a sufficient number of vehicles have been obtained.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: Approximately 1627 vehicle owners/lessees returned EPA's forms indicating interest in participating in the program and approximately 140 ultimately participated.

Total estimated burden: 302 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $7,206. This includes an estimated burden cost of $7,206 and an estimated cost of $0 for capital investment or maintenance and operational costs.

Changes in Estimates: There is a decrease of 2291 responses and 204 hours, corresponding to a decrease in cost of $4,071, in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This change is due to a decrease in the number of responses returned to EPA by potential participants and the associated burden.

Dated: November 27, 2017.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality.

[FR Doc. 2017–26527 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9971–39–OLEM]

Thirty-Second Update of the Federal Agency Hazardous Waste Compliance Docket

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Since 1988, the Environmental Protection Agency (EPA) has maintained a Federal Agency Hazardous Waste Compliance Docket (''Docket'') under Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 120(c) requires EPA to establish a Docket that contains certain information reported to EPA by Federal facilities that manage hazardous waste or from which a reportable quantity of hazardous substances has been released. As explained further below, the Docket is used to identify Federal facilities that should be evaluated to determine if they pose a threat to public health or welfare and the environment and to provide a mechanism to make this information available to the public.

This notice identifies the Federal facilities not previously listed on the Docket and also identifies Federal facilities reported to EPA since the last update on June 6, 2017. In addition to the list of additions to the Docket, this notice includes a section with revisions of the previous Docket list and a section of Federal facilities that are to be deleted from the Docket. Thus, the revisions in this update include 21 additions, 10 deletions, and 7 corrections to the Docket since the previous update. At the time of publication of this notice, the new total number of Federal facilities listed on the Docket is 2,349.

DATES: This list is current as of November 10, 2017.

FOR FURTHER INFORMATION CONTACT: Electronic versions of the Docket and more information on its implementation can be obtained at *http://www.epa.gov/fedfac/previous-federal-agency-hazardous-waste-compliance-docket-updates* by clicking on the link for *Cleanups at Federal Facilities* or by contacting Benjamin Simes (*Simes.Benjamin@epa.gov*), Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Restoration and Reuse Office (Mail Code 5106R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Additional information on the Docket and a complete list of Docket sites can be obtained at: *https://www.epa.gov/fedfac/fedfacts.*

SUPPLEMENTARY INFORMATION:

Table of Contents

1.0 Introduction
2.0 Regional Docket Coordinators
3.0 Revisions of the Previous Docket
4.0 Process for Compiling the Updated Docket
5.0 Facilities Not Included
6.0 Facility NPL Status Reporting, Including NFRAP Status
7.0 Information Contained on Docket Listing

1.0 Introduction

Section 120(c) of CERCLA, 42 United States Code (U.S.C.) § 9620(c), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires EPA to establish the Federal Agency Hazardous Waste Compliance Docket. The Docket contains information on Federal facilities that manage hazardous waste and such information is submitted by Federal agencies to EPA under Sections 3005, 3010, and 3016 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937. Additionally, the Docket contains information on Federal facilities with a reportable quantity of hazardous substances that has been released and such information is submitted by Federal agencies to EPA under Section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA Section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA Section 3010 requires waste generators, transporters and TSD facilities to notify EPA of their hazardous waste activities; and RCRA Section 3016 requires Federal agencies to submit biennially to EPA an inventory of their Federal hazardous waste facilities. CERCLA Section 103(a) requires the owner or operator of a vessel or onshore or offshore facility to notify the National Response Center (NRC) of any spill or other release of a hazardous substance that equals or exceeds a reportable quantity (RQ), as defined by CERCLA Section 101. Additionally, CERCLA Section 103(c) requires facilities that have ''stored, treated, or disposed of'' hazardous wastes and where there is ''known, suspected, or likely releases'' of hazardous substances to report their activities to EPA.

CERCLA Section 120(d) requires EPA to take steps to assure that a Preliminary Assessment (PA) be completed for those sites identified in the Docket and that the evaluation and listing of sites with a PA be completed within a reasonable time frame. The PA is designed to provide information for EPA to consider when evaluating the site for potential response action or inclusion on the National Priorities List (NPL).

The Docket serves three major purposes: (1) To identify all Federal facilities that must be evaluated to determine whether they pose a threat to human health and the environment sufficient to warrant inclusion on the National Priorities List (NPL); (2) to compile and maintain the information submitted to EPA on such facilities under the provisions listed in Section 120(c) of CERCLA; and (3) to provide a mechanism to make the information available to the public.

The initial list of Federal facilities to be included on the Docket was published in the **Federal Register** on February 12, 1988 (53 FR 4280). Since then, updates to the Docket have been published on November 16, 1988 (53 FR 46364); December 15, 1989 (54 FR 51472); August 22, 1990 (55 FR 34492); September 27, 1991 (56 FR 49328); December 12, 1991 (56 FR 64898); July 17, 1992 (57 FR 31758); February 5, 1993 (58 FR 7298); November 10, 1993 (58 FR 59790); April 11, 1995 (60 FR 18474); June 27, 1997 (62 FR 34779); November 23, 1998 (63 FR 64806); June 12, 2000 (65 FR 36994); December 29, 2000 (65 FR 83222); October 2, 2001 (66 FR 50185); July 1, 2002 (67 FR 44200); January 2, 2003 (68 FR 107); July 11, 2003 (68 FR 41353); December 15, 2003 (68 FR 69685); July 19, 2004 (69 FR 42989); December 20, 2004 (69 FR 75951); October 25, 2005 (70 FR 61616); August 17, 2007 (72 FR 46218); November 25, 2008 (73 FR 71644); October 13, 2010 (75 FR 62810); November 6, 2012 (77 FR 66609); March 18, 2013 (78 FR 16668); January 6, 2014 (79 FR 654), December 31, 2014 (79 FR 78850); August 17, 2015 (80 FR 49223), March 3, 2016 (81 FR 11212), October 24, 2016 (81 FR 73096) and June 6, 2017 (82 FR 26092). This notice constitutes the thirty-second update of the Docket.

This notice provides some background information on the Docket. Additional information on the Docket requirements and implementation are found in the Docket Reference Manual, Federal Agency Hazardous Waste Compliance Docket found at *http://www.epa.gov/fedfac/docket-reference-manual-federal-agency-hazardous-waste-compliance-docket-interim-final* or obtained by calling the Regional Docket Coordinators listed below. This notice also provides changes to the list of sites included on the Docket in three areas: (1) Additions, (2) Deletions, and (3) Corrections. Specifically, additions are newly identified Federal facilities that have been reported to EPA since the last update and now are included on the Docket; the deletions section lists Federal facilities that EPA is deleting from the Docket.[1] The information

[1] See Section 3.2 for the criteria for being deleted from the Docket.

submitted to EPA on each Federal facility is maintained in the Docket repository located in the EPA Regional office of the Region in which the Federal facility is located; for a description of the information required under those provisions, *see* 53 FR 4280 (February 12, 1988). Each repository contains the documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each Federal facility.

In prior updates, information was also provided regarding No Further Remedial Action Planned (NFRAP) status changes. However, information on NFRAP and NPL status is no longer being provided separately in the Docket update as it is now available at: *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

2.0 Regional Docket Coordinators

Contact the following Docket Coordinators for information on Regional Docket repositories:

Martha Bosworth (HBS), U.S. EPA Region 1, 5 Post Office Square, Suite 100, Mail Code: OSRR07–2, Boston, MA 02109–3912, (617) 918–1407.

Cathy Moyik (ERRD), U.S. EPA Region 2, 290 Broadway, New York, NY 10007–1866, (212) 637–4339.

Joseph Vitello (3HS12), U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3354.

Leigh Lattimore (4SF–SRSEB), U.S. EPA Region 4, 61 Forsyth St. SW., Atlanta, GA 30303, 404–562–8768.

David Brauner (SR–6J), U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–1526.

Philip Ofosu (6SF–RA), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–3178.

Todd H. Davis (SUPRERSP), U.S. EPA Region 7, 11201 Renner Blvd., Lenexa, KS 66219, (913) 551–7749 .

Ryan Dunham (EPR–F), U.S. EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202, (303) 312–6627.

Leslie Ramirez (SFD–6–1), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3978.

Monica Lindeman (ECL, ABU), U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, ECL–112, Seattle, WA 98101, (206) 553–5113.

3.0 Revisions of the Previous Docket

This section includes a discussion of the additions, deletions, and corrections, to the list of Docket facilities since the previous Docket update.

3.1 Additions

In this notice, 21 Federal facilities are being added to the Docket. Seven of the twenty-one Federal facilities are being added primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA Sections 3005, 3010, or 3016 or CERCLA Section 103). CERCLA Section 120, as amended by the Defense Authorization Act of 1997, specifies that EPA take steps to assure that a Preliminary Assessment (PA) be completed within a reasonable time frame for those Federal facilities that are included on the Docket. Among other things, the PA is designed to provide information for EPA to consider when evaluating the site for potential response action or listing on the NPL.

For the remaining additions, Code 16(a) was added to include a list of 14 NPL Facility additions that were part of a Facility that was already listed in a previous Docket. The NPL Facility additions have been separated from the original Facility and are now identified as a unique Facility on the Docket. For these Sites, the date listed in the Table 1-Additions, is the date the original Facility was listed in the Docket. No further Site Assessment documentation is required for these Facilities.

3.2 Deletions

In this notice, 10 Federal facilities are being deleted from the Docket. There are no statutory or regulatory provisions that address deletion of a facility from the Docket. However, if a facility is incorrectly included on the Docket, it may be deleted from the Docket. The criteria EPA uses in deleting sites from the Docket include: A facility for which there was an incorrect report submitted for hazardous waste activity under RCRA (*e.g.,* 40 CFR 262.44); a facility that was not Federally-owned or operated at the time of the listing; a facility included more than once (*i.e.,* redundant listings); or when multiple facilities are combined under one listing. (*See* Docket Codes (*Categories for Deletion of Facilities*) for a more refined list of the criteria EPA uses for deleting sites from the Docket). Facilities being deleted no longer will be subject to the requirements of CERCLA Section 120(d).

3.3 Corrections

Changes necessary to correct the previous Docket are identified by both EPA and Federal agencies. The corrections section may include changes in addresses or spelling, and corrections of the recorded name and ownership of a Federal facility. In addition, changes in the names of Federal facilities may be made to establish consistency in the Docket or between the Superfund Enterprise Management System (SEMS) and the Docket. For the Federal facility for which a correction is entered, the original entry is as it appeared in previous Docket updates. The corrected update is shown directly below, for easy comparison. This notice includes 7 corrections.

4.0 Process for Compiling the Updated Docket

In compiling the newly reported Federal facilities for the update being published in this notice, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—the WebEOC, the Biennial Inventory of Federal Agency Hazardous Waste Activities, the Resource Conservation and Recovery Act Information System (RCRAInfo), and SEMS—that contain information about Federal facilities submitted under the four provisions listed in CERCLA Section 120(c).

EPA assures the quality of the information on the Docket by conducting extensive evaluation of the current Docket list and contacts the other Federal Agency (OFA) with the information obtained from the databases identified above to determine which Federal facilities were, in fact, newly reported and qualified for inclusion on the update. EPA is also striving to correct errors for Federal facilities that were previously reported. For example, state-owned or privately-owned facilities that are not operated by the Federal government may have been included. Such problems are sometimes caused by procedures historically used to report and track Federal facilities data. Representatives of Federal agencies are asked to contact the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice if revisions of this update information are necessary.

5.0 Facilities Not Included

Certain categories of facilities may not be included on the Docket, such as: (1) Federal facilities formerly owned by a Federal agency that at the time of consideration was not Federally-owned or operated; (2) Federal facilities that are small quantity generators (SQGs) that have not, more than once per calendar year, generated more than 1,000 kg of hazardous waste in any single month; (3) Federal facilities that are very small quantity generators (VSQGs) that have never generated more than 100 kg of hazardous waste in any month; (4) Federal facilities that are solely hazardous waste transportation facilities, as reported under RCRA Section 3010; and (5) Federal facilities

that have mixed mine or mill site ownership.

An EPA policy issued in June 2003 provided guidance for a site-by-site evaluation as to whether ''mixed ownership'' mine or mill sites, typically created as a result of activities conducted pursuant to the General Mining Law of 1872 and never reported under Section 103(a), should be included on the Docket. For purposes of that policy, mixed ownership mine or mill sites are those located partially on private land and partially on public land. This policy is found at *http://www.epa.gov/fedfac/policy-listing-mixed-ownership-mine-or-mill-sites-created-result-general-mining-law-1872.* The policy of not including these facilities may change; facilities now omitted may be added at some point if EPA determines that they should be included.

6.0 Facility NPL Status Reporting, Including NFRAP Status

EPA tracks the NPL status of Federal facilities listed on the Docket. An updated list of the NPL status of all Docket facilities, as well as their NFRAP status, is available at *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. In prior updates, information regarding NFRAP status changes was provided separately.

7.0 Information Contained on Docket Listing

The information is provided in three tables. The first table is a list of additional Federal facilities that are being added to the Docket. The second table is a list of Federal facilities that are being deleted from the Docket. The third table is for corrections.

The Federal facilities listed in each table are organized by the date reported. Under each heading is listed the name and address of the facility, the Federal agency responsible for the facility, the statutory provision(s) under which the facility was reported to EPA, and a code.[2]

The statutory provisions under which a Federal facility is reported are listed in a column titled ''Reporting Mechanism.'' Applicable mechanisms are listed for each Federal facility: For example, Sections 3005, 3010, 3016, 103(c), or Other. ''Other'' has been added as a reporting mechanism to indicate those Federal facilities that otherwise have been identified to have releases or threat of releases of hazardous substances. The National Contingency Plan 40 CFR 300.405 addresses discovery or notification, outlines what constitutes discovery of a hazardous substance release, and states that a release may be discovered in several ways, including: (1) A report submitted in accordance with Section 103(a) of CERCLA, *i.e.,* reportable quantities codified at 40 CFR part 302; (2) a report submitted to EPA in accordance with Section 103(c) of CERCLA; (3) investigation by government authorities conducted in accordance with Section 104(e) of CERCLA or other statutory authority; (4) notification of a release by a Federal or state permit holder when required by its permit; (5) inventory or survey efforts or random or incidental observation reported by government agencies or the public; (6) submission of a citizen petition to EPA or the appropriate Federal facility requesting a preliminary assessment, in accordance with Section 105(d) of CERCLA; (7) a report submitted in accordance with Section 311(b)(5) of the Clean Water Act; and (8) other sources. As a policy matter, EPA generally believes it is appropriate for Federal facilities identified through the CERCLA discovery and notification process to be included on the Docket.

The complete list of Federal facilities that now make up the Docket and the NPL and NFRAP status are available to interested parties and can be obtained at *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. As of the date of this notice, the total number of Federal facilities that appear on the Docket is 2,349.

Dated: November 20, 2017.

Paul Leonard,

Acting Director, Federal Facilities Restoration and Reuse Office, Office of Land and Emergency Management.

Categories for Deletion of Facilities

(1) Small-Quantity Generator and Very Small Quantity Generator. Show citation box.

(2) Never Federally Owned and/or Operated.

(3) Formerly Federally Owned and/or Operated but not at time of listing.

(4) No Hazardous Waste Generated.

(5) (This code is no longer used.)

(6) Redundant Listing/Site on Facility.

(7) Combining Sites Into One Facility/Entries Combined.

(8) Does Not Fit Facility Definition.

Categories for Addition of Facilities

(15) Small-Quantity Generator with either a RCRA 3016 or CERCLA 103 Reporting Mechanism.

(16) One Entry Being Split Into Two (or more)/Federal Agency Responsibility Being Split. (16A) NPL site that is part of a Facility already listed on the Docket.

(17) New Information Obtained Showing That Facility Should Be Included.

(18) Facility Was a Site on a Facility That Was Disbanded; Now a Separate Facility.

(19) Sites Were Combined Into One Facility.

(19A) New Currently Federally Owned and/or Operated Facility Site.

Categories for Corrections of Information About Facilities

(20) Reporting Provisions Change.

(20A) Typo Correction/Name Change/Address Change.

(21) Changing Responsible Federal Agency. (If applicable, new responsible Federal agency submits proof of previously performed PA, which is subject to approval by EPA.)

(22) Changing Responsible Federal Agency and Facility Name. (If applicable, new responsible Federal Agency submits proof of previously performed PA, which is subject to approval by EPA.)

(24) Reporting Mechanism Determined To Be Not Applicable After Review of Regional Files.

[2] Each Federal facility listed in the update has been assigned a code that indicates a specific reason for the addition or deletion. The code precedes this list.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #32—ADDITIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date
AMERICAN LAKE GARDENS/MCCHORD AFB.	555 BARNES BLVD. MCCHORD AIR FORCE BASE.	TACOMA	WA	98438	AIR FORCE	CERCLA 103	16(a)	2/12/88.
US ARMY SOLDIER SUPPORT CTR.	BLDG #28	FORT BENJAMIN.	IN	46216	ARMY	RCRA 3016	17	UPDATE #32.
JOLIET ARMY AMMUNITION PLANT (LOAD-ASSEMBLY-PACKING AREA).	6 MI S OF ELWOOD OFF RTE 53.	JOLIET	IL	60434	ARMY	RCRA 3010	16(a)	2/12/88.
FORT LEWIS (LANDFILL NO. 5).	ATTN: AFZH–FEQ 11 MI E OF OLYMPIA.	TACOMA	WA	53053	ARMY	CERCLA 103	16(a)	2/12/88.
#1 RAVINE UNDER LAKE MONROE.		BLOOMINGTON	IN	47401	ARMY CORPS OF ENGINEERS.	CERCLA 103	17	UPDATE #32.
FEED MATERIALS PRODUCTION CENTER (USDOE).	7400 WILEY ROAD	HAMILTON	OH	45013	ENERGY	RCRA 3005	16(a)	2/12/88.
WELDON SPRING QUARRY/PLANT/PITS (USDOE/ARMY).	7295 HIGHWAY 94 SOUTH.	ST. CHARLES	MO	63304	ENERGY	RCRA 3010	16(a)	2/12/88.
HANFORD 100-AREA (USDOE).	100 AREA	BENTON COUNTY.	WA	99352	ENERGY	RCRA 3005	16(a)	2/12/88.
HANFORD 1100-AREA (USDOE).	1100 AREA	BENTON COUNTY.	WA	99352	ENERGY	RCRA 3005	16(a)	2/12/88.
HANFORD 300-AREA (USDOE).	300 AREA	BENTON COUNTY.	WA	99352	ENERGY	RCRA 3005	16(a)	2/12/88.
USGS—LUDINGTON BIOLOGICAL STATION.	229 S JEBAVY DRIVE	LUDINGTON	MI	49431	INTERIOR	CERCLA 103	17	UPDATE #32.
USFWS HART MOUNTAIN NATIONAL REFUGE—CORRAL DIP TANK SITE, OREGON.	+42.41275 N, −119.71948 W, APPROX. .2 MI SE FROM POST MEADOWS ROAD.	HART MOUNTAIN.	OR	38782	INTERIOR	RCRA 3016	17	UPDATE #32.
ATLANTIC FLEET WEAPONS TRAINING AREA.	ISLAND OF VIEQUES	VIEQUES	PR	00765	NAVY	CERCLA 103	16(a)	9/7/07.
TREASURE ISLAND NAVAL STATION-HUNTERS POINT ANNEX.	HUNTERS POINT NAVAL SHIPYARD.	SAN FRANCISCO.	CA	94124	NAVY	RCRA 3005	16(a)	2/12/88.
BANGOR ORDNANCE DISPOSAL (USNAVY).	CLEAR CREEK ROAD, BLDG 1100.	BREMERTON	WA	98315	NAVY		16(a)	2/12/88.
NAVAL AIR STATION, WHIDBEY ISLAND (SEAPLANE BASE).	1 MI NE OF E PIONEER WAY & TORPEDO INTSC.	WHIDBEY ISLAND.	WA	98278	NAVY		16(a)	2/12/88.
CAL WEST METALS (USSBA).	I–25 & US60 & 85 W FRONTAGE.	LEMITAR	NM	87823	SMALL BUSINESS ADMINISTRATION.	RCRA 3005	16(a)	6/24/88.
US DOT FAA STATION, KATALLA.	+60.194687 N, −144.5188 W, VALDEZ–CORDOVA CENSUS AREA, 47 MILES SE OF CORDOVA.	KATALLA	AK	99574	TRANSPORTATION.	RCRA 3010	17	UPDATE #32.
STANDARD STEEL & METAL SALVAGE YARD (USDOT).	2400 RAILROAD AVENUE.	ANCHORAGE	AK	99501	TRANSPORTATION.		16(a)	12/15/89.
24 RESEARCH PARKWAY.	24 RESEARCH PARKWAY.	WALLINGFORD	CT	06492	USPS	CERCLA 103	15	UPDATE #32.
700 SOUTH 1600 EAST PCE PLUME.	700 SOUTH 1600 EAST PCE PLUME.	SALT LAKE CITY.	UT	84102	VETERANS AFFAIRS.	CERCLA 103	17	UPDATE #32.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #32—DELETIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date
POINT PLEASANT ORGANIZATIONAL MAINTENANCE SHOP #6.	RTE 62, N 6 MI (OLD ORD WKS).	POINT PLEASANT.	WV	25550	ARMY	RCRA 3016	2	6/11/95.
WV ARMY NATIONAL GUARD.	RT 62 N	POINT PLEASANT.	WV		ARMY	CERCLA 103	6	9/27/91.
DOD JOINT SYSTEMS MFG CENTER.	1155 BUCKEYE RD.	LIMA	OH	45804	ARMY	RCRA 3010	6	6/6/17.
TRANSPORTATION SECURITY ADMINISTRATION (MIA).	NW 20TH ST BLDG 3050.	MIAMI	FL	33142	HOMELAND SECURITY.	RCRA 3010	2	1/6/14.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #32—DELETIONS—Continued

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date
US CG—HISTORIC ATON 37 LAKE COEUR D'ALENE.	T50N R4W SEC 23	COEUR D'ALENE.	ID	83814	HOMELAND SECURITY.	RCRA 3010	1	6/6/17.
BLM–A&W SMELTER		ROSAMUND	CA		INTERIER	CERCLA 103	6	2/5/93.
JOHNSTON ATOLL NATIONAL WILDLIFE REFUGE.	16.728611 N, 169.534167 W.	JOHNSTON ATOLL.	JOHNSTON ATOLL		INTERIOR	RCRA 3010	6	2/12/88.
HOOVER DAM		BOULDER CITY.	NV	89005	INTERIOR	RCRA 3010	4	9/27/91.
FWS–SHELDON NATIONAL WILDLIFE REFUGE.	HUMBOLT AND WASHOE COUNTIES.		NV		INTERIOR	RCRA 3016	8	7/19/04.
QUESTAR PIPELINE COMPANY EAKIN STATION.	HIGHWAY 189 N	KEMMERER	WY	83101	INTERIOR	RCRA 3010	2	8/17/15.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #32—CORRECTIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date
OTTAWA NATIONAL FOREST SITE.	2100 E CLOVEDAND DR	WATERSMEET.	MI	49969	AGRICULTURE.	RCRA 3010	20(a)	09/27/91.
ROBBINS POND DDT BURIAL SITE.	2100 E CLOVEDAND DR	WATERSMEET.	MI	49969	AGRICULTURE.	RCRA 3010		09/27/91.
FORT LEWIS	T19N R2E S21, 22, 26&27, 11 MI E OF OLYMPIA.	FORT LEWIS	WA	98433	ARMY	RCRA 3005	20(a)	02/12/88.
FORT LEWIS LOGISTICS CENTER.	T19N R2E S21, 22, 26&27, 11 MI E OF OLYMPIA.	FORT LEWIS	WA	98433	ARMY	RCRA 3005		02/12/88.
HANFORD SITE	HANFORD SITE	RICHLAND	WA	99352	ENERGY	RCRA 3005	20(a)	02/12/88.
HANFORD 200–AREA (USDOE).	200 AREA	BENTON COUNTY.	WA	99352	ENERGY	RCRA 3005		02/12/88.
SAM NUNN ATLANTA FEDERAL CENTER PROJECT.	45 BROAD ST	ATLANTA	GA	30303	GENERAL SERVICES ADMINISTRATION.	RCRA 3010	20(a)	11/23/98.
ATLANTA FEDERAL CENTER PROJECT.	45 BROAD ST	ATLANTA	GA	30303	GENERAL SERVICES ADMINISTRATION.	RCRA 3010		11/23/98.
LYONS STATION	45 MI. SO OF ENNIS ON HWY 287.	ENNIS	MT	59749	INTERIOR	RCRA 3010	22	02/05/93.
LYONS STATION	45 MI. SO OF ENNIS ON HWY 287.	ENNIS	MT	59749	AGRICULTURE.	RCRA 3010		02/05/93.
WEST FORK RANGER DISTRICT.	15 MILES SOUTH OF DARBY MT ON.	WEST FORK RS.	MT	59829	INTERIOR	RCRA 3010	22	02/05/93.
WEST FORK RANGER DISTRICT.	15 MILES SOUTH OF DARBY MT ON.	WEST FORK RS.	MT	59829	AGRICULTURE.	RCRA 3010		02/05/93.
USMC SUPPORT FACILITY—BLOUNT ISLAND.	5880 CHANNEL VIEW DR	JACKSONVILLE.	FL	32226–3404	NAVY	RCRA 3010	20(a)	12/31/14.
COMMANDER NAVY REGION SOUTHEAST.	5880 CHANNEL VIEW DR	JACKSONVILLE.	FL	32226–3404	NAVY	RCRA 3010		12/31/14.

[FR Doc. 2017–26534 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9971–23–Region 9]

Public Water System Supervision Program Revision for the State of Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Hawaii revised its approved Public Water System Supervision Program (PWSSP) under the federal Safe Drinking Water Act (SDWA) by adopting the Filter Backwash Recycling Rule (FBRR) and the Long-Term 1 Enhanced Surface Water Treatment Rule (LT1). The Environmental Protection Agency (EPA) has determined that these revisions by the State of Hawaii are no less stringent than the corresponding Federal regulations and otherwise meet applicable SDWA primacy requirements. Therefore, EPA intends to approve these revisions to the State of Hawaii's PWSSP.

DATES: Request for a public hearing must be received on or before January 8, 2018.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, except official State holidays (for the Hawaii location) and official Federal holidays (for the two EPA locations), at the following offices: Hawaii Department of Health, Safe Drinking Water Branch, 2385 Waimano Home Road, Uluakupu Building 4, Pearl City, Hawaii 96782; United States Environmental Protection Agency, Region 9, Pacific Islands Office, 300 Ala

Moana Blvd., Room 5124, Honolulu, Hawaii 96850; and United States Environmental Protection Agency, Region 9, Drinking Water Management Section, 75 Hawthorne Street (WTR–3–1), San Francisco, California 94105. Documents relating to this determination are also available online at *http://health.hawaii.gov/sdwb/public-notices/* for inspection.

FOR FURTHER INFORMATION CONTACT: Anna Yen, EPA Region 9, Drinking Water Management Section, at the address given above; telephone number: (415) 972–3976; email address: *yen.anna@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background. EPA approved the State of Hawaii's original application for PWSSP primary enforcement authority which, following the public notice period, became effective on October 20, 1977 (42 FR 47244, no request for public hearing received). EPA subsequently approved and finalized revisions to the State of Hawaii's PWSSP on the following dates: May 6, 1993 (58 FR 17892); July 19, 1993 (58 FR 33442); September 29, 1993 (58 FR 45491); March 13, 1995 (60 FR 7962); May 23, 1996 (61 FR 17892); and July 31, 2015 (80 FR 45656).

Public Process. Any interested party may request a public hearing on this determination. A request for a public hearing must be submitted by January 8, 2018, to the Regional Administrator at the EPA Region 9 address shown above. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. If a substantial request for a public hearing is made by January 8, 2018, EPA Region 9 will hold a public hearing. Any request for a public hearing shall include the following information: 1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; 2. A brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and 3. The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If EPA Region 9 does not receive a timely and appropriate request for a hearing and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on January 8, 2018, and no further public notice will be issued.

Authority: Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300g–2 (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations.

Dated: November 15, 2017.

Alexis Strauss,

Acting Regional Administrator, EPA, Region 9.

[FR Doc. 2017–26535 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Regular Meeting; Farm Credit System Insurance Corporation Board

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

DATES: The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 14, 2017, from 11:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit System Insurance Corporation Board, (703) 883–4009, TTY (703) 883–4056, *aultmand@fca.gov*.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102. Submit attendance requests via email to *VisitorRequest@FCA.gov*. See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit System Insurance Corporation Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- September 21, 2017

B. Business Reports

- September 30, 2017 Financial Reports
- Report on Insured and Other Obligations
- Quarterly Report on Annual Performance Plan

Closed Session

- Confidential Report on System Performance
- Audit Plan for the Year Ended December 31, 2017

Executive Session

- Executive Session of the Audit Committee with Auditor

Dated: December 5, 2017.

Dale L. Aultman,

Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. 2017–26474 Filed 12–7–17; 8:45 am]

BILLING CODE 6710–01–P

FEDERAL TRADE COMMISSION

[File No. 172 3009]

Cowboy AG LLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 2, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''In the Matter of Cowboy AG LLC doing business as Cowboy Toyota and Cowboy Scion, File No. 172 3009'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/cowboyconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''In the Matter of Cowboy AG LLC doing business as Cowboy Toyota and Cowboy Scion, File No. 172 3009'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary,

600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: James R. Golder, Attorney, (214–979–9376), Southwest Region, 1999 Bryan Street, Suite 2150, Dallas, TX 75201.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 1, 2018), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 2, 2018. Write ''In the Matter of Cowboy AG LLC doing business as Cowboy Toyota and Cowboy Scion, File No. 172 3009'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *https://www.ftc.gov/policy/public-comments.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/cowboyconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you prefer to file your comment on paper, write ''In the Matter of Cowboy AG LLC doing business as Cowboy Toyota and Cowboy Scion, File No. 172 3009'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Web site at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Web site—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Web site, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 2, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (FTC) has accepted, subject to final approval, an agreement containing a consent order from Cowboy AG LLC, doing business as Cowboy Toyota and Cowboy Scion. The proposed consent order has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

The respondent is a motor vehicle dealer that engaged in substantial Spanish-language advertising, but only provided disclosures in fine-print English. According to the FTC complaint, respondent advertised that consumers could purchase or lease advertised vehicles at certain favorable terms prominently stated in its advertisements. The complaint alleges that respondent violated Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a), because it misrepresented in its Spanish-language advertisements that (1) consumers could purchase new 2016 automobiles with no down payments, (2) that advertised low monthly payments were available to those who financed automobile purchases, (3) that advertised interest rates, monthly payments, and other terms were available to consumers with bad credit, and (4) that certain new 2016 model year Toyotas were available for purchase in 2017. This information would be material to consumers in deciding whether to visit respondent's dealership and whether to purchase or lease an automobile from respondent.

The complaint also alleges that respondent's credit sale advertisements violated the Truth in Lending Act (TILA) and Regulation Z by failing to disclose or to disclose clearly and conspicuously required terms.

Specifically, respondent's advertisements prominently stated the amount of the finance charge and the number of payments or period of repayment for certain vehicles—all triggering terms under the TILA—but failed to disclose, or unclearly and inconspicuously disclosed at the bottom of the ad in much smaller type, the required information set forth by the TILA. Finally, the complaint alleges that respondent's leasing advertisements violated the Consumer Leasing Act (CLA) and Regulation M by failing to disclose or to disclose clearly and conspicuously required terms. Specifically, respondent's advertisements prominently stated the monthly payment amounts for certain vehicles—a triggering term under the CLA—but failed to disclose, or unclearly and inconspicuously disclosed at the bottom of the ad in much smaller type, the required information set forth by the CLA.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices in the future.

- Definition B. of the order defines ''clearly and conspicuously'' to mean that required disclosures must be difficult to miss (*i.e.,* easily noticeable) and easily understandable by ordinary consumers, including that disclosures must appear in the same language as the representation requiring the disclosure is made (*e.g.* Spanish advertisement → Spanish disclosure).
- Part I.A.1. provides that respondent shall not misrepresent the cost of financing the purchase of an automobile, including by misrepresenting the amount or percentage of the down payment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over the full term of the loan, including any balloon payment.
- Part I.A.2. provides that respondent shall not misrepresent the cost of leasing an automobile, including by misrepresenting the total amount due at lease inception, the down payment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments.
- Part I.B. provides that respondent shall not misrepresent any qualification or restriction on the consumer's ability to obtain the represented financing or leasing terms, including any qualification or restriction based on the consumer's credit score or credit history.
- Part I.C. provides that respondent shall not represent any financing or leasing term, unless the representation is non-misleading, and the advertisement clearly and conspicuously discloses all qualifications or restrictions on the consumer's ability to obtain the represented financing or leasing term, including any qualifications or restrictions that respondent's lender, lessor, or any other entity may impose based on a consumer's credit score or credit history. Additionally, if a majority of consumers likely will not be able to meet a credit score qualification or restriction stated in the advertisement, respondent must clearly and conspicuously disclose that fact.
- Part I.D. provides that respondent shall not misrepresent the number of vehicles, makes, or models that are available for purchase or lease.
- Part I.E. provides that respondent shall not misrepresent any other material fact about the price, sale, financing, or leasing of any automobile.
- Part II of the order addresses the TILA and Regulation Z allegations by prohibiting credit sale advertisements that:

A. State the amount or percentage of any down payment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without disclosing clearly and conspicuously all of the following terms:

○ The amount or percentage of the down payment;

○ The terms of repayment; and

○ The annual percentage rate, using the term ''annual percentage rate'' or the abbreviation ''APR.'' If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed; or

B. State a rate of finance charge without stating the rate as an ''annual percentage rate'' or the abbreviation ''APR,'' using that term; or

C. Fail to comply in any respect with Regulation Z, 12 CFR part 226, as amended, and the Truth in Lending Act, as amended, 15 U.S.C. 1601–1667f.

- Part III of the order addresses the CLA and Regulation M allegations by prohibiting lease advertisements that:

A. State the amount of any payment or that any or no initial payment is required at lease inception, without disclosing clearly and conspicuously the following terms:

○ That the transaction advertised is a lease;

○ the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;

○ the number, amounts, and timing of scheduled payments;

○ whether or not a security deposit is required; and

○ that an extra charge may be imposed at the end of the lease term where the consumer's liability (if any) is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

B. Fail to comply in any respect with Regulation M, 12 CFR part 213, as amended, and the Consumer Leasing Act, 15 U.S.C. 1667–1667f, as amended.

- Part IV requires respondent to provide copies of the order to certain personnel and to obtain acknowledgments of receipt.
- Part V requires respondent to file compliance reports with the Commission, including notices regarding changes in corporate structure that might affect compliance obligations under the order. Part VI requires respondent to create certain records for 15 years and to retain them for 5 years. Part VII provides the Commission certain mechanisms to monitor respondent's compliance with the order. Part VIII is a provision that ''sunsets'' the order after 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–26443 Filed 12–7–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–718–721 and CMS–10307]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register**

concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *January 8, 2018.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806, *OR*, Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at Web site address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: 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. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Business Proposal Forms for Quality Improvement Organizations (QIOs); *Use:* The submission of proposal information by current quality improvement associations (QIOs) and other bidders, on the appropriate forms, will satisfy our need for meaningful, consistent, and verifiable data with which to evaluate contract proposals. We use the data collected on the forms associated with this information collection request to negotiate QIO contracts. We will be able to compare the costs reported by the QIOs on the cost reports to the proposed costs noted on the business proposal forms. Subsequent contract and modification negotiations will be based on historic cost data. The business proposal forms will be one element of the historical cost data from which we can analyze future proposed costs. In addition, the business proposal format will standardize the cost proposing and pricing process among all QIOs. With well-defined cost centers and line items, proposals can be compared among QIOs for reasonableness and appropriateness. *Form Number:* CMS–718–721 (OMB control number: 0938–0579); *Frequency:* Annually; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 20; *Total Annual Responses:* 20; *Total Annual Hours:* 1,000. (For policy questions regarding this collection contact Benjamin Bernstein at 410–786–6570.)

2. *Type of Information Collection Request:* Reinstatement with change of a previous approved information collection; *Title of Information Collection:* Medical Necessity and Claims Denial Disclosures under MHPAEA; *Use:* The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Pub. L. 110–343) generally requires that group health plans and group health insurance issuers offering mental health or substance use disorder (MH/SUD) benefits in addition to medical and surgical (med/surg) benefits ensure that they do not apply any more restrictive financial requirements (*e.g.,* co-pays, deductibles) and/or treatment limitations (*e.g.,* visit limits) to MH/SUD benefits than those requirements and/or limitations applied to substantially all med/surg benefits.

The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010, Public Law 111–152, was enacted on March 30, 2010. These statutes are collectively known as the ''Affordable Care Act.'' The Affordable Care Act extended MHPAEA to apply to the individual health insurance market. Additionally, the Department of Health and Human Services (HHS) final regulation regarding essential health benefits (EHB) requires health insurance issuers offering non-grandfathered health insurance coverage in the individual and small group markets, through an Exchange or outside of an Exchange, to comply with the requirements of the MHPAEA regulations in order to satisfy the requirement to cover EHB (45 CFR 147.150 and 156.115).

Medical Necessity Disclosure Under MHPAEA

MHPAEA section 512(b) specifically amends the Public Health Service (PHS) Act to require plan administrators or health insurance issuers to provide, upon request, the criteria for medical necessity determinations made with respect to MH/SUD benefits to current or potential participants, beneficiaries, or contracting providers. The Interim Final Rules Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (75 FR 5410, February 2, 2010) and the Final Rules under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 set forth rules for providing criteria for medical necessity determinations. CMS oversees non-Federal governmental plans and health insurance issuers.

Claims Denial Disclosure Under MHPAEA

MHPAEA section 512(b) specifically amends the PHS Act to require plan administrators or health insurance issuers to supply, upon request, the reason for any denial or reimbursement of payment for MH/SUD services to the participant or beneficiary involved in the case. The Interim Final Rules Under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (75 FR 5410, February 2, 2010) and the Final Rules under the Paul Wellstone and Pete Domenici Mental Health Parity and

Addiction Equity Act of 2008 implement 45 CFR 146.136(d)(2), which sets forth rules for providing reasons for claims denial. CMS oversees non-Federal governmental plans and health insurance issuers, and the regulation provides a safe harbor such that non-Federal governmental plans (and issuers offering coverage in connection with such plans) are deemed to comply with requirements of paragraph (d)(2) of 45 CFR 146.136 if they provide the reason for claims denial in a form and manner consistent with ERISA requirements found in 29 CFR 2560.503–1. Section 146.136(d)(3) of the final rule clarifies that PHS Act section 2719 governing internal claims and appeals and external review as implemented by 45 CFR 147.136, covers MHPAEA claims denials and requires that, when a non-quantitative treatment limitation (NQTL) is the basis for a claims denial, that a non-grandfathered plan or issuer must provide the processes, strategies, evidentiary standard, and other factors used in developing and applying the NQTL with respect to med/surg benefits and MH/SUD benefits.

Disclosure Request Form

Group health plan participants, beneficiaries, covered individuals in the individual market, or persons acting on their behalf, may use this optional model form to request information from plans regarding NQTLs that may affect patients' MH/SUD benefits or that may have resulted in their coverage being denied. *Form Number:* CMS–10307 (OMB control number: 0938–1080) ; *Frequency:* On Occasion; *Affected Public:* State, Local, or Tribal Governments, Private Sector, Individuals; *Number of Respondents:* 267,538; *Number of Responses:* 1,081,929; *Total Annual Hours:* 43,327. (For policy questions regarding this collection, contact Usree Bandyopadhyay at 410–786–6650.)

Dated: December 5, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–26524 Filed 12–7–17; 8:45 am]

BILLING CODE 4120–01–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); Comment Request

Title: Child Care and Development Fund Plan for States/Territories for FFY 2019–2021(ACF–118).

OMB No.: 0970–0114.

Description: The Child Care and Development Fund (CCDF) Plan (the Plan) for States and Territories is required from each CCDF Lead agency in accordance with Section 658E of the Child Care and Development Block Grant Act of 1990, (CCDBG Act), as amended, CCDBG Act of 2014 (Pub. Law 113–186), and 42 U.S.C 9858. The Plan provides ACF and the public with a description of, and assurance about, the States' and Territories' child care programs. States must submit Plans to ACF on or before July 2, 2018 for approval in order to receive funding on October 1, 2018 for FY 2019.

The Office of Child Care (OCC) has revised the FY 2019–2021 CCDF Plan Preprint to align with the CCDF Final Rule published on September 30, 2016. In making the revisions, consideration was given to minimize the burden of the collection of information on respondents. The Plan, submitted via the ACF–118, is required triennially, and will remain in effect for three years.

Due to unanticipated events, including challenges faced by States and Territories in implementing portions of the comprehensive and unprecedented background check requirements, the OCC has re-examined the implementation deadline to give States and Territories an opportunity to apply for additional time (up to two years, in one year increments) to meet the most challenging parts of the background check requirements as long as specific milestones are met. These developments required OCC to delay submission of the CCDF Plan Preprint for review and approval by OMB because the process and criteria for requesting additional time will be carried out as part of the Plan submission process. The delay prevented OCC from completing the regular Paperwork Reduction Act clearance process that includes two **Federal Register** notices and comment periods.

Respondents: State and Territory CCDF Lead Agencies (56)

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–118	56	0.33	200	3,696

Estimated Total Annual Burden Hours: 3,696.

Additional Information:

ACF is requesting that Office of Management and Budget (OMB) grant a 180-day approval for the FY 2019–2012 CCDF State/Territory Plan Preprint (ACF–118) under procedures for emergency processing by January 31, 2018. A copy of this information collection may be obtained by contacting Valentina Ntim, Child Care Program Specialist, at (202) 205–8398. Email address: *valentina.ntim@acf.hhs.gov*

This notice provides for a single 30-day comment period for the public to submit comments on the revised ACF–118. Comments and questions about the information collection described above should be directed to the following addresses within 30 days of publication of this notice: Administration for Children and Families, Office of Planning, Research, and Evaluation, Attn: ACF Reports Clearance Officer, *infocollection@acf.hhs.gov*, and Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project, Desk Officer for ACF, Email address: *Stephanie_J_Tatham@omb.eop.gov.*

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2017–26472 Filed 12–7–17; 8:45 am]

BILLING CODE 4184–43–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6569]

Clinical and Patient Decision Support Software; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Clinical and Patient Decision Support Software.'' This draft guidance provides clarity on the scope of FDA's oversight of clinical decision support software intended for healthcare professionals, and patient decision support software intended for patients and caregivers who are not healthcare professionals. This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by February 6, 2018 to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–6569 for ''Clinical and Patient Decision Support Software; Draft Guidance for Industry and Food and Drug Administration Staff; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff office, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Clinical and Patient Decision Support Software'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002 or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; or Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Bakul Patel, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5458, Silver Spring, MD 20993–0002, 301–796–5528; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 301–240–402–7911; or Kristina Lauritsen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6158, Silver Spring, MD 20993–0002, 301–796–8936.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has long regulated software that meets the definition of a device in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) (FD&C Act), including software that is intended to provide decision support for the diagnosis, treatment, prevention, cure, or mitigation of

diseases or other conditions (often referred to as clinical decision support software). Similar software functions may be intended for use by patients. This draft guidance provides clarity on the scope of FDA's oversight of: (1) Clinical decision support software intended for healthcare professionals, and (2) patient decision support software intended for patients and caregivers who are not healthcare professionals.

FDA recognizes that the term ''clinical decision support'' or ''CDS'' is used broadly and in different ways, depending on the context. This draft guidance defines ''CDS'' in the context of and using language from section 3060(a) of the 21st Century Cures Act (Cures Act), which amended section 520 of the FD&C Act (21 U.S.C. 360j) and excludes certain software functions from the device definition. The purpose of this guidance is to identify the types of decision support software functionalities that: (1) Do not meet the definition of a device, in light of the Cures Act; (2) may meet the definition of a device but for which FDA does not intend to enforce compliance with applicable requirements of the FD&C Act, including, but not limited to, premarket clearance and premarket approval requirements; and (3) FDA intends to focus its regulatory oversight on.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Clinical and Patient Decision Support Software.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Guidance Documents/default.htm.* Guidance documents are also available at *https://www.fda.gov/BiologicsBloodVaccines/Guidance ComplianceRegulatoryInformation/default.htm* or *https://www.fda.gov/Drugs/GuidanceComplianceRegulatory Information/Guidances/default.htm* or *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Clinical and Patient Decision Support Software'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1400062 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subparts A through E, have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H have been approved under OMB control number 0910–0332; the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338; the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001; and the collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485.

Dated: December 4, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26439 Filed 12–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–4301]

Fostering Digital Health Innovation: Developing the Software Precertification Program; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled ''Fostering Digital Health Innovation: Developing the Software Precertification Program.'' The purpose of the public workshop is to discuss the progress of the pilot precertification program and to seek input on the ongoing development of the Software Precertification Program. In its Digital Health Innovation Action Plan and as part of the Medical Device User Fee Amendments, FDA has committed to explore opportunities to establish streamlined regulatory pathways tailored for digital health technologies that take into account real world evidence while incorporating principles established through international harmonization.

DATES: The public workshop will be held on January 30 to 31, 2018, from 8:30 a.m. to 5 p.m. Submit either electronic or written comments on this public workshop by June 29, 2018. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at Ruth L. Kirschstein Auditorium, Natcher Conference Center, Bldg. 45, National Institutes of Health (NIH) Campus, 9000 Rockville Pike, Bethesda, MD 20892. The entrance for the public workshop participants (non-NIH employees) is through the NIH Gateway Center located adjacent to the Medical Center Metro, where routine security check procedures will be performed. Please visit the following Web site for NIH campus location, parking, security, and travel information: *http://www.nih.gov/about/visitor/index.htm.* Please visit the following Web site for information on the Natcher Conference Center: *http://www.genome.gov/11007522.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 29, 2018, at the *https://www.regulations.gov* electronic filing system. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a

third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–4301 for ''Fostering Digital Health Innovation: Developing the Software Precertification Program; Public Workshop; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Bakul Patel, Food and Drug Administration, Center for Devices and Radiological Health, 10903 New Hampshire Ave., Bldg. 66, Rm. 5458, Silver Spring, MD 20993, 301–796–5528, *Bakul.Patel@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

As part of the FDA Reauthorization Act of 2017 (Pub. L. 115–52), which reauthorizes the Medical Device User Fee Amendments for fiscal years 2018 through 2022, FDA has committed to explore opportunities to establish streamlined regulatory pathways tailored for digital health technologies that consider real world evidence while incorporating principles established through international harmonization. FDA recognizes that an efficient, risk-based approach to regulating digital health technology will foster innovation of digital health products. FDA's traditional approach to moderate and higher risk hardware-based medical devices is not well suited for the faster iterative design, development, and type of validation used for software-based medical technologies.

FDA issued a Digital Health Innovation Action Plan on July 27, 2017, in order to outline its efforts to develop pragmatic approaches to balance benefits and risks of digital health products (Ref. 1). In the **Federal Register** of July 28, 2017, FDA announced its Software Precertification (Pre-Cert) Pilot Program (82 FR 35216). The voluntary pilot program aims to evaluate a new approach toward software products, including a precertification program for the assessment of companies that perform high-quality software design and testing. FDA intends to develop a precertification program that could replace the need for a premarket submission in some cases and allow for decreased submission content and/or faster review of marketing applications for software products in other cases. The pilot program began in September 2017. This public workshop provides an opportunity for FDA customers to provide input on the development of the precertification program.

II. Topics for Discussion at the Public Workshop

During the public workshop, speakers and participants will discuss a range of issues related to the Software Pre-Cert program and the development of novel premarket approval/clearance pathways for digital health products. Discussion topics include:

• Criteria and measures to assess whether a company consistently and reliably engages in high-quality software design and testing (validation) and ongoing maintenance of its software products.

○ Appropriate ''Key Performance Indicators'' that are independent of organization size, deployment strategies, or computing platforms.

• Levels of precertification and how those levels correlate to the digital health product's risk.

• Other aspects and topics related to pre-certifying a company including methods and mechanisms for a company to maintain precertification status.

• Types of digital health products that should be marketed based on the levels of precertification without FDA premarket review or after a streamlined, less-burdensome FDA premarket review.

• Considerations for streamlined premarket review and postmarket data collection and analysis.

III. Participating in the Public Workshop

Registration: To register for the public workshop, please visit FDA's Medical Devices News & Events—Workshops & Conferences calendar (*https://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm*) and select this event from the list of items provided. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone number.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public workshop must register by January 18, 2018, 4 p.m. Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m. We will let registrants know if registration closes before the day of the public workshop.

If you need special accommodations due to a disability, please contact Susan Monahan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5231, Silver Spring, MD 20993–0002, 301–796–5661 or email: *Susan.Monahan@fda.hhs.gov,* no later than January 16, 2018.

Requests for Oral Presentations: During online registration, you may indicate if you wish to present during a public comment session and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments and requests to participate in the focused sessions. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the focused sessions. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by January 19, 2018. All requests to make oral presentations must be received by the close of registration on January 18, 2018, 4 p.m. If selected for presentation, any presentation materials must be emailed to Maggie Fu at *maggie.fu@fda.hhs.gov* no later than January 25, 2018. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Streaming Webcast of the Public Workshop: This public workshop will also be webcast. The webcast link will be available on the registration Web page after January 23, 2018. Please visit FDA's Medical Devices News & Events—Workshops & Conferences calendar (*https://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm*) and select this event from the list of items provided. Organizations are requested to register all participants, but to view using one connection per location.

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *http://www.adobe.com/go/connectpro_overview.* FDA has verified the Web site addresses in this document, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the Internet at *https://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm.*

IV. Reference

The following reference is on display at the Dockets Management Staff (see **ADDRESSES**), and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *https://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. FDA's Digital Health Innovation Action Plan issued on July 27, 2017 available at: *https://www.fda.gov/MedicalDevices/DigitalHealth/UCM567265.*

Dated: December 4, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26457 Filed 12–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6313]

Prescription Drug User Fee Act VI Commitment To Assess Current Practices of the Food and Drug Administration and Sponsors in Communicating During Investigational New Drug Development; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the statement of work to assess current practices of FDA and sponsors in communicating during investigational new drug (IND) development and identify best practices and areas of improvement. The independent assessment is part of FDA performance commitments under the recent reauthorization of the Prescription Drug User Fee Act (PDUFA). The independent assessment of current practices of FDA and sponsors in communicating during drug development is described in detail in the document entitled ''PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2018 Through 2022'' available at *https://www.fda.gov/downloads/forindustry/userfees/prescriptiondruguserfee/ucm511438.pdf.* As part of FDA performance commitments described in this document, the assessment will be conducted by an independent contractor. FDA is providing for public comment on the statement of work before revising and requesting contractor proposals.

DATES: Submit either electronic or written comments by January 22, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 22, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of January 22, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted,

such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–6313 for ''Prescription Drug User Fee Act VI Commitment to Assess Current Practices of the Food and Drug Administration and Sponsors in Communicating During Investigational New Drug Development.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Yoni Tyberg, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1151, Silver Spring, MD 20993, 301–348–1718, Fax: 301–847–8443, *Yonatan.Tyberg@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The IND phase of drug development is the time during which human trials of investigational drugs are conducted. During the IND phase, sponsors and FDA engage in many types of communications. To ensure the effectiveness of human drug review programs, it is critical that these communications be conducted in a timely and efficient manner.

The timely review of the safety and effectiveness of new drugs and biologics is central to FDA's mission to protect and promote the public health. Prior to enactment of PDUFA in 1992, FDA's drug review process was relatively slow and not very predictable compared to that of other countries. Due to concerns expressed by both industry and patients at the time, Congress enacted PDUFA, which provided the added funds through user fees that enabled FDA to hire additional reviewers and support staff and upgrade its information technology systems. In return for additional resources, FDA agreed to certain review performance goals, such as completing reviews of new drug applications and biologics license applications and taking regulatory actions on them in predictable timeframes. These changes revolutionized the drug approval process in the United States and enabled FDA to speed the application review process for new drugs and biologics without compromising the Agency's high standards for demonstration of safety, efficacy, and quality of new drugs and biologics prior to approval.

PDUFA provides FDA with a source of stable, consistent funding that has made it possible for it to focus on promoting innovative therapies and help bring to market critical products for patients. When PDUFA was originally authorized in 1992, it had a 5-year term. The program has been subsequently reauthorized every 5 years with the most recent reauthorization occurring in 2017 for fiscal years (FYs) 2018–2022. To prepare for the 2017 reauthorization of PDUFA, FDA conducted negotiations with the regulated industry and held regular consultations with public stakeholders including patient advocates, consumer advocates, and health care professionals between September 2015 and February 2016. Following these discussions, related public meetings, and Agency requests for public comment, FDA published proposed recommendations for PDUFA VI for FYs 2018–2022. FDA committed under PDUFA VI to contract with an independent third party to assess current practices of FDA and sponsors in communicating during IND development and to identify best practices and areas of improvement.

The statement of work can be accessed at *https://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM577087.pdf.*

Dated: December 4, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26437 Filed 12–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6294]

Changes to Existing Medical Software Policies Resulting From Section 3060 of the 21st Century Cures Act; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Changes to Existing Medical Software Policies Resulting from Section 3060 of the 21st Century Cures Act.'' This draft guidance provides clarity on FDA's current thinking regarding changes made by the 21st Century Cures Act (Cures Act) to the definition of a medical device and the resulting effect on guidances related to medical device software. This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by February 6, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–6294 for ''Changes to Existing Medical Software Policies Resulting from Section 3060 of the 21st Century Cures Act; Draft Guidance for Industry and Food and Drug Administration Staff; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Changes to Existing Medical Software Policies Resulting from Section 3060 of the 21st Century Cures Act'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Bakul Patel, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5458, Silver Spring, MD 20993–0002, 301–796–5528, or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has long regulated software that meets the definition of a device. Section 3060(a) of the Cures Act, enacted on December 13, 2016 (Pub. L. 114–255), amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to exclude certain medical software functions from the definition of device under section 201(h) of the FD&C Act (21 U.S.C. 321(h)). Under sections 520(o)(1)(A)–(D) of the FD&C Act (21 U.S.C. 360j(o)(1)(A)–(D)), as added by the Cures Act, certain medical software functions are not medical devices, including software functions that are intended (1) for administrative support of a health care facility, (2) for maintaining or encouraging a healthy lifestyle, (3) to serve as electronic patient records, or (4) for transferring, storing, converting formats, or displaying data.

This draft guidance explains the effect of the medical software provisions in the Cures Act on preexisting FDA policy, including policy on mobile medical applications; medical device

data systems used for the electronic transfer, storage, display, or conversion of medical device data; medical image storage devices, used to store or retrieve medical images electronically; medical image communications devices, used to transfer medical image data electronically between medical devices; software that automates laboratory workflow; and low-risk general wellness products. FDA intends to provide clarification of its interpretation of section 520(o)(1)(E) of the FD&C Act, which is for software functions intended to provide decision support for the diagnosis, treatment, prevention, cure, or mitigation of disease or other conditions (often referred to as clinical decision support software) in a separate guidance document. Section 520(o)(2) of the FD&C Act describes the regulation of a product with multiple functions, including at least one device function and at least one software function that is not a device. FDA also intends to provide recommendations on the regulation of such products with multifunctionality in a separate guidance document.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Changes to Existing Medical Software Policies Resulting from Section 3060 of the 21st Century Cures Act.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Changes to Existing Medical Software Policies Resulting from Section 3060 of the 21st Century Cures Act'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 17030 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 803 have been approved under OMB control number 0910–0437; and the collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485.

Dated: December 4, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26442 Filed 12–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0508]

Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised guidance for industry entitled ''Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments.'' This guidance is intended to assist persons making tobacco product establishment registration and product listing submissions to FDA.

DATES: The announcement of the guidance is published in the **Federal Register** on December 8, 2017.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2009–D–0508 for ''Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including

the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a Fax number to which the guidance document may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Matthew Brenner, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1373, email: *CTPRegulations@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a revised guidance for industry entitled ''Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments.'' This guidance is intended to assist persons making tobacco product establishment registration and product listing submissions to FDA. We are issuing this guidance consistent with our good guidance practices (GGP) regulation (§ 10.115 (21 CFR 10.115)). We are implementing this guidance without prior public comment because we have determined that prior public participation is not feasible or appropriate (§ 10.115(g)(2)). We made this determination given the upcoming deadline for product listing information updates for owners and operators of tobacco product manufacturing establishments. In addition, the compliance policy for certain product listing information updates set forth in this revised guidance presents a policy to limit submissions consistent with the public health. Although this guidance document is immediately in effect, it remains subject to comment in accordance with FDA's GGP regulation.

This revised guidance describes the compliance policy for product listing information updates for deemed tobacco products for persons who owned or operated domestic manufacturing establishments engaged in the manufacture of deemed products prior to August 8, 2016, and continued to own or operate such establishment(s) on or after August 8, 2016. With respect to the deemed tobacco products listing requirement, FDA does not intend to enforce the requirement for persons who own or operate domestic manufacturing establishments engaged in the manufacture of deemed tobacco products to update product listing information during the month of December 2017 provided they registered and listed their products by October 12, 2017.[1] As a result, registrants of deemed products would update their product listing by June 30, 2018, and complete their next annual registration by December 31, 2018. If an establishment is engaged in the manufacture of both deemed tobacco products and tobacco products originally regulated under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), FDA intends to enforce the registration and product listing information requirements for tobacco products originally regulated under the FD&C Act.

Owners or operators of establishments engaged in the manufacture of deemed products as of August 8, 2016, were first required to register and submit deemed product listing information under section 905 of the FD&C Act (21 U.S.C. 387e) by December 31, 2016. However, in a guidance issued in September 2017, FDA announced that it does not intend to enforce these requirements with respect to deemed products provided the registration and product listing submissions were received by FDA on or before October 12, 2017.

[1] Registration by such persons by October 12, 2017, satisfies the requirement in section 905(b) of the FD&C Act that such persons register their establishments annually on or before December 31, 2017.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on registration and product listing for owners and operators of domestic tobacco product establishments. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in section 905 of the FD&C Act have been approved under OMB control number 0910–0650.

IV. Electronic Access

Persons with access to the internet may obtain an electronic version of the guidance at either *https://www.regulations.gov* or *https://www.fda.gov/TobaccoProducts/Labeling/RulesRegulationsGuidance/default.htm.*

Dated: December 4, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26469 Filed 12–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–2483]

Software as a Medical Device: Clinical Evaluation; International Medical Device Regulators Forum; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the guidance entitled ''Software as a Medical Device (SaMD): Clinical Evaluation.'' This guidance was prepared as part of the FDA's international convergence efforts under the auspices of the International Medical Device Regulators Forum (IMDRF), formerly the Global Harmonization Task Force. The guidance, informed by global and U.S. public comments, pertains to Software as a Medical Device (SaMD) and focuses on principles of clinical evaluation, which include establishing the scientific validity, clinical performance, and analytical validity for SaMD. The guidance is intended to provide globally harmonized principles of when and what type of clinical evaluation is appropriate based on the risk of the SaMD.

DATES: The announcement of the guidance is published in the **Federal Register** on December 8, 2017.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–2483 for ''Software as a Medical Device (SaMD): Clinical Evaluation.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Software as a Medical Device (SaMD): Clinical Evaluation'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: *Regarding the guidance:* Bakul Patel, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5458, Silver Spring, MD 20993–0002, 301–796–5528.

Regarding the IMDRF: Melissa A. Torres, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5432, Silver Spring, MD 20993–0002, 301–796–5576.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities across the globe to promote international harmonization and convergence of regulatory requirements. One of the goals of global convergence is to identify and reduce differences in regulatory approaches among regulatory agencies. IMDRF seeks to advance international convergence in the approach towards medical device regulation with input from both regulatory and industry representatives. The current members of the Management Committee of the IMDRF are regulatory officials from Australia (Therapeutic Goods Administration), Brazil (National Health Surveillance Agency), Canada (Health Canada), China (China Food and Drug Administration), European Union (European Commission Directorate-General for Internal Market, Industry, Entrepreneurship, and Small and Medium-sized Enterprises), Japan (Pharmaceuticals and Medical Devices Agency and the Ministry of Health, Labour, and Welfare), Russia (Ministry of Healthcare), Singapore (Health

Sciences Authority), and the United States (U.S. FDA). The World Health Organization and the Asia-Pacific Economic Cooperation Life Sciences Innovation Forum Regulatory Harmonization Steering Committee are IMDRF Official Observers. The Asian Harmonization Working Party and the Pan American Health Organization are IMDRF Affiliate Organizations.

The IMDRF Management Committee (IMDRF MC) chartered the SaMD Working Group (WG) to develop a regulatory framework for SaMD and to develop converged principles for global regulators to adopt in their respective jurisdictions. The SaMD WG includes representatives from the IMDRF members, industry, academia, and other key stakeholders as well as regional harmonization initiatives from around the world.

The IMDRF SaMD WG considered comments received on the draft guidance that was announced in the **Federal Register** of October 14, 2016 (81 FR 71105). The SaMD WG also considered public comments received by other regulators and from other global stakeholders. The final IMDRF/SaMD WG/N41 document, ''Software as a Medical Device (SaMD): Clinical Evaluation,'' submitted to IMDRF MC was revised appropriately in response to all of the comments. The IMDRF MC in Ottawa, Canada, at the 12th meeting held from September 19 to 21, 2017, unanimously approved the document entitled ''Software as a Medical Device (SaMD): Clinical Evaluation.'' This final IMDRF/SaMD WG/N41 document is available for regulatory implementation according to the regulatory process in each jurisdiction.

This guidance adopts the internationally converged principles agreed upon by the IMDRF. FDA adoption of these principles provides FDA with an initial framework when further developing the Agency's specific regulatory approaches and expectations for regulatory oversight. This guidance does not provide recommendations for FDA Staff and Industry to apply to specific regulatory situations, nor does it modify current regulatory expectations, including those for regulatory submissions, at this time. FDA intends to consider the principles of this guidance in the development of regulatory approaches for SaMD and digital health technologies. In developing regulatory approaches based on the principles of this guidance, the Agency intends to follow a public process, including providing opportunities for public input. For more information on FDA adoption of IMDRF documents as an FDA guidance document, please see *https://www.fda.gov/MedicalDevices/InternationalPrograms/IMDRF/default.htm.*

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Software as a Medical Device (SaMD): Clinical Evaluation.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Software as a Medical Device (SaMD): Clinical Evaluation'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 16039 to identify the guidance you are requesting.

Dated: December 4, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26441 Filed 12–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–3083]

Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Requirements and Commitments; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: Under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), the Food and Drug Administration (FDA or Agency) is required to report annually in the **Federal Register** on the status of postmarketing requirements (PMRs) and postmarketing commitments (PMCs) required of, or agreed upon by, holders of approved drug and biological products. This notice is the Agency's report on the status of the studies and clinical trials that applicants have agreed to, or are required to, conduct.

FOR FURTHER INFORMATION CONTACT: Cathryn C. Lee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6484, Silver Spring, MD 20993–0002, 301–796–0700; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

A. Postmarketing Requirements and Commitments

A PMR is a study or clinical trial that an applicant is required by statute or regulation to conduct postapproval. A PMC is a study or clinical trial that an applicant agrees in writing to conduct postapproval, but that is not required by statute or regulation. PMRs and PMCs can be issued upon approval of a drug [1] or postapproval, if warranted.

FDA can require application holders to conduct postmarketing studies and clinical trials:

- To assess a known serious risk, assess signals of serious risk, or identify an unexpected serious risk related to the use of a drug product (section 505(o)(3) of the FD&C Act (21 U.S.C. 355(o)(3)), as added by the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Pub. L. 110–85)).
- Under the Pediatric Research Equity Act (PREA) (Pub. L. 108–155), to study certain new drugs for pediatric populations, when these drugs are not adequately labeled for children. Under section 505B(a)(3) of the FD&C Act (21 U.S.C. 355c), the initiation of these studies may be deferred until required safety information from other studies in adults has first been submitted and reviewed.
- To verify and describe the predicted effect or other clinical benefit for drugs approved in accordance with the accelerated approval provisions in section 506(c)(2)(A) of the FD&C Act (21

[1] For the purposes of this notice, references to ''drugs'' or ''drug products'' include drugs approved under the FD&C Act and biological products licensed under the Public Health Service Act other than biological products that also meet the definition of a device in section 201(h) of the FD&C Act (21 U.S.C. 321(h)).

U.S.C. 356(c)(2)(A)) (21 CFR 314.510 and 21 CFR 601.41).

• For a drug that was approved on the basis of animal efficacy data because human efficacy trials are not ethical or feasible (21 CFR 314.610(b)(1) and 21 CFR 601.91(b)(1)). PMRs for drug products approved under the animal efficacy rule [2] can be conducted only when the drug product is used for its indication and when an exigency (or event or need) arises. In the absence of a public health emergency, these studies or clinical trials will remain pending indefinitely.

B. Reporting Requirements

Under the regulations (21 CFR 314.81(b)(2)(vii) and 21 CFR 601.70), applicants of approved drugs are required to submit annually a report on the status of each clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology study or clinical trial either required by FDA or that they have committed to conduct, either at the time of approval or after approval of their new drug application (NDA), abbreviated new drug application (ANDA), or biologics license application (BLA). Applicants are required to report to FDA on these requirements and commitments made for NDAs and ANDAs under § 314.81(b)(2)(viii). The status of PMCs concerning chemistry, manufacturing, and production controls and the status of other studies or clinical trials conducted on an applicant's own initiative are not required to be reported under §§ 314.81(b)(2)(vii) and 601.70 and are not addressed in this report. Furthermore, section 505(o)(3)(E) of the FD&C Act requires that applicants report periodically on the status of each required study or clinical trial and each study or clinical trial ''otherwise undertaken . . . to investigate a safety issue. . . .''

An applicant must report on the progress of the PMR/PMC on the anniversary of the drug product's approval [3] until the PMR/PMC is completed or terminated and FDA determines that the PMR/PMC has been fulfilled or that the PMR/PMC is either no longer feasible or would no longer provide useful information. The annual status report (ASR) must include a description of the PMR/PMC, a schedule for completing the PMR/PMC, and a characterization of the current status of the PMR/PMC. The report must also provide an explanation of the PMR/PMC status by describing briefly the progress of the PMR/PMC. A PMR/PMC schedule is expected to include the actual or projected dates for the following: (1) Submission of the final protocol to FDA; (2) completion of the study or clinical trial; and (3) submission of the final report to FDA.

C. PMR/PMC Status Categories

The status of the PMR/PMC must be described in the ASR according to the terms and definitions provided in §§ 314.81 and 601.70. For its own reporting purposes, FDA has also established terms to describe when the conditions of the PMR/PMC have been met, and when it has been determined that a PMR/PMC is no longer necessary.[4] The PMR/PMC status categories are summarized in the following list. As reflected in the definitions, the status of a PMR/PMC is generally determined based on the original schedule.[5]

• *Pending:* The study or clinical trial has not been initiated (*i.e.,* no subjects have been enrolled or animals dosed), but does not meet the criteria for delayed (*i.e.,* the original projected date for initiation of subject accrual or initiation of animal dosing has not passed).[6]

• *Ongoing:* The study or clinical trial is proceeding according to or ahead of the original schedule.

• *Delayed:* The study or clinical trial is behind the original schedule.[7]

• *Terminated:* The study or clinical trial was ended before completion, but a final report has not been submitted to FDA.

• *Submitted:* The study or clinical trial has been completed or terminated, and a final report has been submitted to FDA.

• *Fulfilled:* The final report for the study or clinical trial was submitted to FDA and FDA notified the applicant that the requirement or commitment was fulfilled through written correspondence.

• *Released:* FDA has informed the applicant in writing that it is released from its obligation to conduct the study or clinical trial because the study or clinical trial is no longer feasible, would no longer provide useful information, or the underlying application has been formally withdrawn.

In addition to the above statuses, PMRs/PMCs may also be characterized as open or closed. *Open* PMRs/PMCs comprise those that are pending, ongoing, delayed, submitted, or terminated; whereas *closed* [8] PMRs/PMCs are either fulfilled or released. Open PMRs are also described by whether they are on- or off-schedule. *On-schedule* PMRs/PMCs are those that are pending, ongoing, or submitted. *Off-schedule* PMRs/PMCs are those that have missed one of the milestone dates in the original schedule and are categorized as either delayed or terminated.

D. Additional Requirements

If an applicant fails to comply with the original schedule for completion of postmarketing studies or clinical trials required under section 505(o)(3) of the FD&C Act (*i.e.,* under the FDAAA authorities), or fails to submit periodic reports on the status of the studies or clinical trials, the applicant is considered to be in violation of section 505(o)(3), unless it has demonstrated good cause for its noncompliance or other violation. Failure to meet an original milestone and, as a result, falling behind the original schedule is one type of noncompliance with a PMR issued under FDAAA. In these circumstances, the FDAAA PMR is considered delayed, with or without good cause.

Section 505B(a)(3)(B) of the FD&C Act, as amended by the Food and Drug Administration Safety and Innovation Act, authorizes FDA to grant an extension of the deferred pediatric assessments that are required under PREA.[9] On its own initiative or upon request, FDA may grant an extension of a pediatric assessment deferral,

[2] 21 CFR 314.600 for drugs; 21 CFR 601.90 for biological products.

[3] An applicant must submit an annual status report on the progress of each open PMR/PMC within 60 days of the anniversary date of United States approval of the original application or on an alternate reporting date that was granted by FDA in writing. Some applicants have requested and been granted by FDA alternate annual reporting dates to facilitate harmonized reporting across multiple applications.

[4] See the guidance for industry entitled ''Reports on the Status of Postmarketing Study Commitments—Implementation of Section 130 of the Food and Drug Administration Modernization Act of 1997'' available at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM080569.pdf.*

[5] The definitions for the terms ''pending,'' ''ongoing,'' ''delayed,'' ''terminated,'' and ''submitted'' are adapted from §§ 314.81 and 601.70; the definitions for the terms ''fulfilled'' and ''released'' are described in the guidance for industry entitled ''Reports on the Status of Postmarketing Study Commitments—Implementation of Section 130 of the Food and Drug Administration Modernization Act of 1997.''

[6] It is important to note that PMRs/PMCs that are in pending status are not yet delayed; that is, per the milestones, the studies or clinical trials are indeed on schedule and are not expected to be underway yet.

[7] In some instances, an applicant may have justifiable reasons for delay of its PMR/PMC (see section I.D).

[8] Previous FDA reports on the status of PMRs/PMCs used the term ''completed'' to refer to PMRs/PMCs that are closed.

[9] This provision does not apply to PMRs required under other provisions, or to PMCs.

provided that certain applicable PREA criteria for deferral are still met and the applicant submits certain materials in support of the extension.[10] Applicants must submit requests for deferral extensions to FDA not less than 90 days before the date the deferral would otherwise expire. If FDA grants the extension of a pediatric study deferral, this new deferral date is considered the original due date of the PMR. Consequently, the status of PREA PMRs would be determined based on the new deferral date (and not the original PREA PMR schedule).

FDA may take enforcement action against applicants who are noncompliant with or otherwise fail to conduct studies and clinical trials required under FDA statutes and regulations (see, for example, sections 505(o)(1), 502(z), and 303(f)(4) of the FD&C Act (21 U.S.C. 355(o)(1), 352(z), and 333(f)(4))).

II. Understanding FDA's Data on Postmarketing Studies and Clinical Trials

A. FDA's Internal PMR/PMC Databases

Databases containing information on PMRs/PMCs are maintained at the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER). The information in these databases is periodically updated as new PMRs/PMCs are issued, upon FDA review of PMR/PMC ASRs or other PMR/PMC correspondence, upon receipt of final reports from completed studies and clinical trials, and after the final reports are reviewed and FDA determines that the PMR/PMC has been fulfilled, or when FDA determines that the PMR/PMC is either no longer feasible or would no longer provide useful information. Because applicants typically report on the status of their PMRs/PMCs annually, and because updating the status of PMRs/PMCs in FDA's databases involves FDA review of received information, there is an inherent lag in updating the data (that is, the data are not real time). FDA strives to maintain as accurate information as possible on the status of PMRs/PMCs.

Both CDER and CBER have established policies and procedures to help ensure that FDA's data on PMRs/PMCs are current and accurate. When identified, data discrepancies are addressed as expeditiously as possible and/or are corrected in later reports.

B. Publicly Available PMR/PMC Data

FDA also maintains an online searchable and downloadable database that contains information about PMRs/PMCs that is *publicly reportable* (*i.e.,* for which applicants must report on the status of the study or clinical trial, as required under section 506B of the FD&C Act (21 U.S.C. 356b)). The data are a subset of all PMRs/PMCs and reflect only those postmarketing studies and clinical trials that, at the time of data retrieval, either had an open status or were closed within the past year. Information on PMRs/PMCs closed more than a year before the date the data are extracted (*i.e.,* September 30, 2016) is not included on the public Web site. The FDA Web site is updated quarterly.[11] The FDA Web site does not include information about PMCs concerning chemistry, manufacturing, and controls. It is FDA policy not to post information on the Web site until it has been verified and reviewed for suitability for public disclosure.

III. About This Report

This report is published to fulfill the annual reporting requirement under section 506B(c) of the FD&C Act. Information in this report covers any PMR/PMC that was made, in writing, at the time of approval or after approval of an application or a supplement to an application (see section I.A), and summarizes the status of PMRs/PMCs in fiscal year (FY) 2016 (*i.e.,* as of September 30, 2016). Specifically, the report summarizes the status of all open PMRs/PMCs through the end of the fiscal year, and the status of only those PMRs/PMCs that were closed in the fiscal year. If a requirement or commitment did not have a schedule, or an ASR was not received in the previous 12 months, the PMR/PMC is categorized according to the most recent information available to the Agency.[12]

This report reflects combined data from CDER and CBER. Information summarized in the report includes the following: (1) The number of applicants with open PMRs/PMCs;[13] (2) the number of open PMRs/PMCs; (3) the number of applications for which an ASR was expected but was not submitted within 60 days of the anniversary date of U.S. approval or an alternate reporting date that was granted by FDA; (4) FDA-verified status of open PMRs/PMCs reported in § 314.81(b)(2)(vii) or § 601.70 ASRs; (5) the status of closed PMRs/PMCs; and (6) the distribution of the status by fiscal year of establishment[14] (FY2010 to FY2016) for PMRs and PMCs open at the end of FY2016, or those closed within FY2016. The tables in this report distinguish between PMRs and PMCs, PMRs/PMCs for NDAs and BLAs, and on-schedule and off-schedule PMRs/PMCs, according to the original schedule milestones. Additional information about PMRs/PMCs is provided on FDA's Web site at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PostmarketingPhaseIVCommitments/default.htm.*

Numbers published in this report cannot be compared with the numbers resulting from searches of the publicly accessible and downloadable database. This is because this report incorporates data for all PMRs/PMCs in FDA databases as of the end of the fiscal year, including PMRs/PMCs undergoing review for accuracy. The publicly accessible and downloadable database includes a subset of PMRs/PMCs, specifically those that, at the time of data retrieval, either had an open status or were closed within the past 12 months. In addition, the status information in this report is updated annually while the downloadable database is updated quarterly (*i.e.,* in January, April, July, and October).

IV. Summary of Information on PMR/PMC Status

This report provides information on PMRs/PMCs as of September 30, 2016 (*i.e.,* for FY2016). It is important to note that a comparison of the number of open and on-schedule or off-schedule PMRs/PMCs over time can be misleading because it does not take into account that the cohort of open PMRs/PMCs is not static from year to year. New PMRs/PMCs are continually being established for studies and clinical trials with varying start dates and durations; and other PMRs/PMCs are closed because they are either fulfilled or released. Also, ongoing PMRs/PMCs are carried forward into the subsequent fiscal year. Therefore, the number of on- and off-schedule PMRs/PMCs can vary from year to year, and a year-to-year

[10] See section 505B(a)(3)(B) of the FD&C Act.

[11] *https://www.accessdata.fda.gov/scripts/cder/pmc/index.cfm.*

[12] Although the data included in this report do not include a summary of reports that applicants have failed to file by their due dates, the Agency notes that it may take appropriate regulatory action in the event reports are not filed on a timely basis.

[13] At the end of FY2016, there were no PMRs/PMCs for ANDAs that met the reporting requirements under the Food and Drug Administration Modernization Act of 1997. Therefore, this report reflects information for NDAs and BLAs only.

[14] The establishment date is the date of the formal FDA communication to the applicant that included the final FDA-required (PMR) or requested (PMC) postmarketing study or clinical trial.

comparison of on- or off-schedule PMRs (*e.g.,* to assess for a potential trend) is not appropriate. Finally, due to rounding, the percentages in the tables may not add up to 100 percent.

A. Applicants With Open PMRs/PMCs

An applicant may have multiple approved drug products, and an approved drug product may have multiple PMRs and/or PMCs. Table 1 shows that as of September 30, 2016, there were 285 unique applicants with open PMRs/PMCs under 890 unique NDAs and BLAs. There were 207 unique NDA applicants (and 734 associated applications) and 78 unique BLA applicants (and 156 associated applications) with open PMRs/PMCs.

TABLE 1—APPLICANTS AND APPLICATIONS (NDA/BLA) WITH OPEN POSTMARKETING REQUIREMENTS AND COMMITMENTS

[Numbers as of September 30, 2016]

	NDA [1]	BLA [2]	Total (NDA and BLA)
Number of unique applicants with open PMRs/PMCs	207	78	285
Number of applications with open PMRs/PMCs	734	156	890

[1] As of September 30, 2016, there were only NDAs with associated PMRs/PMCs managed by CDER.
[2] Includes BLAs managed by both CDER and CBER.

B. Annual Status Reports Received

As previously mentioned, applicants must submit an ASR on the progress of each open PMR/PMC within 60 days of the anniversary date of United States approval of the original application or an alternate reporting date that was granted by FDA (§§ 314.81 and 601.70).[15] Table 2 shows that there were 764 NDAs and BLAs with an ASR due in FY2016 (622 NDAs and 142 BLAs).[16] Of the 622 NDA ASRs due in that fiscal year, 66 percent (411/622) were received on time, 11 percent (66/622) were not received on time, and 23 percent (145/622) were not received during FY2016. Of the 142 BLA ASRs due, 72 percent (102/142) were received on time, 17 percent (24/142) were not received on time, and 11 percent (16/142) were not received during FY2016.

TABLE 2—ANNUAL STATUS REPORTS RECEIVED

[Numbers as of September 30, 2016] [1]

	[2] Expected	Received, on time [3] (% of expected)	Received, not on time [4] (% of expected)	Expected but not received (% of expected)
NDA	[5] 622	411 (66%)	66 (11%)	145 (23%)
BLA	142	102 (72%)	24 (17%)	16 (11%)
Total	764	513 (67%)	90 (12%)	161 (21%)

[1] Percentages may not total 100 due to rounding.
[2] ASR expected during fiscal year (within 60 days (before or after) of the anniversary of original approval date or alternate agreed-upon date).
[3] ASR was received within 60 days (before or after) of the anniversary of the original approval date or alternate agreed-upon date.
[4] ASR was received, but not within 60 days (before or after) of the anniversary of the original approval date or alternate agreed-upon date.
[5] The total number of NDA ASRs expected in FY2016 (622) increased compared to the number of ASRs expected in FY2015 (451). The increase is primarily due to the establishment of several FDAAA safety PMRs for which a serious safety issue applied to a class of drug products. In those cases, each applicant with a drug product (*i.e.,* application) in the class was required to conduct the same postmarketing safety study or trial, and each applicant was required to submit an ASR for that PMR. As a consequence, multiple ASRs were expected during FY2016 for the same FDAAA safety PMR.

C. Overview of On- and Off-Schedule Open PMRs/PMCs

Table 3 shows that as of September 30, 2016, most open PMRs (84 percent for NDAs and 91 percent for BLAs) and most open PMCs (71 percent for NDAs and 83 percent for BLAs) were progressing on schedule.

TABLE 3—SUMMARY OF ON- AND OFF-SCHEDULE POSTMARKETING REQUIREMENTS AND COMMITMENTS

[Numbers as of September 30, 2016] [1]

	Open PMRs *N = 1,323*		Open PMCs *N = 365*	
	NDA (% of open NDA PMRs)	BLA (% of open BLA PMRs)	NDA (% of open NDA PMCs)	BLA (% of open BLA PMCs)
On-schedule	882 (84%)	247 (91%)	123 (71%)	159 (83%)
Off-schedule	169 (16%)	25 (9%)	51 (29%)	32 (17%)

[15] Some applicants have requested and been granted by FDA alternate annual reporting dates to facilitate harmonized reporting across multiple applications.

[16] The number of ASRs that were expected is different from the total number of unique applications with open PMRs/PMCs because not all applications had an ASR due during FY2016. Applicants with PMRs/PMCs associated with multiple applications may have submitted the ASR to only one of the applications. In addition, if all of the PMRs/PMCs for an application were established in the preceding fiscal year, or if all PMRs/PMCs for an application were closed before the ASR due date, submission of an ASR would not have been expected.

TABLE 3—SUMMARY OF ON- AND OFF-SCHEDULE POSTMARKETING REQUIREMENTS AND COMMITMENTS—Continued

[Numbers as of September 30, 2016] [1]

	Open PMRs *N = 1,323*		Open PMCs *N = 365*	
	NDA (% of open NDA PMRs)	BLA (% of open BLA PMRs)	NDA (% of open NDA PMCs)	BLA (% of open BLA PMCs)
Total	1,051	272	174	191

[1] Percentages may not total 100 due to rounding.

D. Open and On-Schedule PMRs

Table 4 shows that as of September 30, 2016, nearly half of the open NDA and BLA PMRs were pending (49 percent (517/1,051) and 45 percent (123/272), respectively). PREA PMRs and FDAAA PMRs comprised 55 percent (349/640) and 39 percent (249/640) of pending PMRs, respectively. The next largest category of open and on-schedule PMRs comprised those that were ongoing (29 percent (306/1,051) of NDA PMRs and 37 percent (100/272) of BLA PMRs).

TABLE 4—SUMMARY OF OPEN AND ON-SCHEDULE POSTMARKETING REQUIREMENTS

[Numbers as of September 30, 2016] [1]

Reporting authority/PMR status	NDA *N = 1,051* *(% of open NDA PMRs)*			BLA *N = 272* *(% of open BLA PMRs)*		
	Pending	Ongoing	Submitted	Pending	Ongoing	Submitted
Accelerated approval	16 (2%)	19 (2%)	3 (<1%)	13 (5%)	10 (4%)	4 (1%)
PREA [2]	300 (28%)	124 (12%)	14 (1%)	49 (18%)	29 (11%)	8 (3%)
Animal efficacy [3]	4 (<1%)	0	1 (<1%)	9 (3%)	0	0
FDAAA safety	197 (19%)	163 (16%)	41 (4%)	52 (19%)	61 (22%)	12 (4%)
Total	517 (49%)	306 (29%)	59 (6%)	123 (45%)	100 (37%)	24 (9%)

[1] Percentages may not total 100 due to rounding.

[2] Many PREA studies have a pending status. PREA studies are usually deferred because the drug product is ready for approval in adults. Initiation of these studies may be deferred until additional safety information from other studies has first been submitted and reviewed before beginning the studies in pediatric populations.

[3] PMRs for drug products approved under the animal efficacy rule (21 CFR 314.600 for drugs; 21 CFR 601.90 for biological products) can be conducted only when the drug product is used for its indication and when an exigency (or event or need) arises. In the absence of a public health emergency, these studies or clinical trials will remain pending indefinitely.

E. Open and Off-Schedule PMRs

Table 5 provides additional information on the status of open and off-schedule PMRs (*i.e.,* delayed and terminated). At the end of September 30, 2016, 16 percent (169/1,051) of the open NDA PMRs and 9 percent (25/272) of the open BLA PMRs were off schedule. Of the off-schedule NDA PMRs, 97 percent (164/169) were off schedule because they were delayed and the remaining 3 percent (5/169) were terminated. Similarly, 88 percent of the off-schedule BLA PMRs were delayed (22/25).

In certain situations, the original PMR schedules were adjusted for unanticipated delays in the progress of the study or clinical trial (*e.g.,* difficulties with subject enrollment in a clinical trial for a marketed drug or the need for additional time to analyze results). In this report, study or clinical trial status reflects the status in relation to the original [17] study or clinical trial schedule regardless of whether FDA has acknowledged that additional time was required to complete the study or clinical trial.

TABLE 5—SUMMARY OF OPEN AND OFF-SCHEDULE POSTMARKETING REQUIREMENTS

[Numbers as of September 30, 2016] [1]

Reporting authority/PMR status	NDA *N = 1,051* *(% of open NDA PMRs)*		BLA *N = 272* *(% of open BLA PMRs)*	
	Delayed	Terminated	Delayed	Terminated
Accelerated approval	9 (1%)	1 (<1%)	1 (<1%)	0
PREA	84 (8%)	2 (<1%)	6 (2%)	2 (1%)
Animal efficacy	0	0	0	0
FDAAA safety	71 (7%)	2 (<1%)	15 (6%)	1 (<1%)

[17] With the exception of PREA PMRs for which a deferral extension of the final report submission date has been granted.

TABLE 5—SUMMARY OF OPEN AND OFF-SCHEDULE POSTMARKETING REQUIREMENTS—Continued

[Numbers as of September 30, 2016] [1]

Reporting authority/PMR status	NDA N = 1,051 (% of open NDA PMRs)		BLA N = 272 (% of open BLA PMRs)	
	Delayed	Terminated	Delayed	Terminated
Total	164 (16%)	5 (<1%)	22 (8%)	3 (1%)

[1] Percentages may not total 100 due to rounding.

F. Open On-Schedule and Off-Schedule PMCs

Table 6 provides the status of open on-schedule and off-schedule PMCs. As of September 30, 2016, most open, on-schedule NDA PMCs were pending (36 percent; 62/174) and most open, on-schedule BLA PMCs were ongoing (43 percent; 83/191). Fewer open NDA and BLA PMCs were considered off schedule (29 percent (51/174) and 17 percent (32/191), respectively). The majority of off-schedule NDA and BLA PMCs were delayed according to the original schedule milestones.

TABLE 6—SUMMARY OF OPEN POSTMARKETING COMMITMENTS

[Numbers as of September 30, 2016] [1]

	NDA N = 174 (% open PMCs)	BLA N = 191 (% open PMCs)
On-Schedule:		
Pending	62 (36%)	52 (27%)
Ongoing	40 (23%)	83 (43%)
Submitted	21 (12%)	24 (13%)
Total	123 (71%)	159 (83%)
Off-Schedule:		
Delayed	50 (29%)	30 (16%)
Terminated	1 (1%)	2 (1%)
Total	51 (29%)	32 (17%)

[1] Percentages may not total 100 due to rounding.

G. Closed PMRs and PMCs

Table 7 provides details about PMRs and PMCs that were closed (fulfilled or released) within FY2016. The majority of closed PMRs were fulfilled (72 percent of NDA PMRs and 82 percent of BLA PMRs) at the end of FY2016. Similarly, the majority of closed PMCs were fulfilled at the end of FY2016.

TABLE 7—SUMMARY OF CLOSED [1] POSTMARKETING REQUIREMENTS AND COMMITMENTS

[Numbers as of September 30, 2016] [2]

	NDA	BLA
Postmarketing Requirements		
Closed PMRs (% of Total Closed PMRs)	*N = 174*	*N = 33*
Requirement met (fulfilled)	126 (72%)	27 (82%)
Requirement not met (released and new revised requirement issued)	19 (11%)	4 (12%)
Requirement no longer feasible or drug product withdrawn (released)	29 (17%)	2 (6%)
Postmarketing Commitments		
Closed PMCs (% of Total Closed PMCs)	*N= 54*	*N=28*
Requirement met (fulfilled)	44 (82%)	23 (82%)
Requirement not met (released and new revised requirement issued)	1 (2%)	1 (4%)
Requirement no longer feasible or drug product withdrawn (released)	9 (17%)	4 (14%)

[1] The table shows data for those PMRs/PMCs that were closed (fulfilled or released) within FY2016. Therefore, data for PMRs/PMCs that were closed in prior fiscal years are not included.

[2] Percentages may not total 100 due to rounding.

H. Distribution of the Statuses of PMRs and PMCs

Tables 8 and 9 show the distribution of the statuses of PMRs/PMCs as of September 30, 2016, presented by the years that the PMRs/PMCs were established [18] (FY2010 to FY2016).[19] [20] Note that the data shown for closed (fulfilled or released) PMRs/PMCs are for all PMRs/PMCs that were closed as of FY2016. Therefore, data for PMRs/PMCs that were closed in prior fiscal years are included.

Based on the data shown in table 8, an average of 261 PMRs were established each year since FY2010.[21] Most PMRs that were established in the earlier years were either fulfilled or released. For example, as of September 30, 2016, 54 percent (122/224) of the PMRs that were established in FY2010 were fulfilled, and 12 percent (27/224) were released. The majority of PMRs that were established in more recent years were either pending (*i.e.,* not yet underway) or ongoing (*i.e.,* still in progress and on schedule). For example, as of September 30, 2016, 86 percent (232/269) of the PMRs established in FY2016 were pending, and 8 percent (22/269) were ongoing. Overall, of the PMRs that were pending as of September 30, 2016, 83 percent (510/614) were created within the past 3 years (FY2014, FY2015, and FY2016). Finally, table 8 shows that, on average, 7 percent (137/1,829) of the PMRs established since FY2010 were delayed as of September 30, 2016.

TABLE 8—SUMMARY OF STATUS OF POSTMARKETING REQUIREMENTS ESTABLISHED [1] BETWEEN FY2010 AND FY2016 [2]

[Numbers as of September 30, 2016] [3]

PMR status as of FY2016 (% of total PMRs in each establishment year)	Fiscal year of PMR establishment						
	2010	2011	2012	2013	2014	2015	2016
Pending	8 (4%)	16 (6%)	24 (11%)	56 (20%)	114 (39%)	164 (58%)	232 (86%)
Ongoing	26 (12%)	49 (19%)	52 (24%)	69 (25%)	80 (27%)	52 (18%)	22 (8%)
Submitted	15 (7%)	7 (3%)	9 (4%)	8 (3%)	12 (4%)	16 (6%)	2 (1%)
Delayed	26 (12%)	18 (7%)	25 (11%)	30 (11%)	25 (9%)	13 (4%)	0
Terminated	0	2 (<1%)	1 (<1%)	0	0	1 (<1%)	0
Released	27 (12%)	59 (23%)	30 (14%)	33 (12%)	14 (5%)	5 (2%)	4 (2%)
Fulfilled	122 (54%)	110 (42%)	79 (36%)	82 (29%)	48 (16%)	33 (12%)	9 (3%)
Total [4]	224	261	220	278	293	284	269

[1] The establishment date is the date of the formal FDA communication to the applicant that included the final FDA-required (PMR) or -requested (PMC) postmarketing study or clinical trial.

[2] The table shows data for PMRs that were closed (fulfilled or released) as of FY2016. Therefore, data for PMRs that were closed in prior fiscal years are included.

[3] Percentages may not total 100 due to rounding.

[4] The total number of PMRs/PMCs established in FY2010 through FY2016 reflects the data in FDA's databases as of September 30, 2016. Because of data corrections and improvements in ascertaining the PMR/PMC establishment date, some of the total numbers of PMRs/PMCs established in each fiscal year are different from those reported in the prior fiscal year's (FY2015) **Federal Register** report.

Table 9 provides an overview of PMCs in a similar format as table 8 for PMRs. The results for PMCs are similar to those for PMRs as described above and in table 8.

TABLE 9—SUMMARY OF STATUS OF POSTMARKETING COMMITMENTS ESTABLISHED [1] BETWEEN FY2010 AND FY2016 [2]

[Numbers as of September 30, 2016] [3]

PMR status as of FY2016 (% of total PMCs in each establishment year)	Fiscal year of PMC establishment						
	2010	2011	2012	2013	2014	2015	2016
Pending	1 (1%)	3 (4%)	0	3 (7%)	8 (14%)	25 (40%)	48 (80%)
Ongoing	11 (12%)	17 (21%)	11 (27%)	16 (35%)	19 (34%)	18 (28%)	4 (7%)
Submitted	8 (9%)	1 (1%)	2 (5%)	3 (7%)	7 (13%)	1 (2%)	2 (3%)
Delayed	13 (14%)	5 (6%)	4 (10%)	3 (7%)	0	5 (8%)	0
Terminated	0	0	0	0	0	0	0
Released	10 (11%)	12 (15%)	1 (2%)	1 (2%)	0	1 (2%)	0
Fulfilled	51 (54%)	42 (53%)	23 (56%)	20 (43%)	22 (39%)	13 (21%)	6 (10%)
Total [4]	94	80	41	46	56	63	60

[1] The establishment date is the date of the formal FDA communication to the applicant that included the final FDA-required (PMR) or requested (PMC) postmarketing study or clinical trial.

[18] The establishment date is the date of the formal FDA communication to the applicant that included the final FDA-required (PMR) or requested (PMC) postmarketing study or clinical trial.

[19] Tables 8 and 9 include data for only the past 7 fiscal years. Data on the distribution of statuses for PMRs/PMCs established in FY2009 and as of FY2015 are presented in the FY2015 status of postmarketing requirements and commitments report (81 FR 85573) (*https://www.federalregister.gov/d/2016-28442*).

[20] The total number of PMRs/PMCs established in FY2010 through FY2016 reflects the data in FDA's databases as of September 30, 2016. Because of data corrections and improvements in ascertaining the PMR/PMC establishment date, some of the total numbers of PMRs/PMCs established in each fiscal year are different from those reported in the prior fiscal year's (FY2015) **Federal Register** report.

[21] The number of PMRs issued at any particular period is determined by a variety of factors including but not necessarily limited to: (1) The number of NDAs approved in that period; (2) whether additional efficacy or clinical benefit issues were evaluated; (3) if any drug-associated serious risk(s) had been identified; and (4) whether or not FDA determines that a postmarketing study or clinical trial is necessary to further assess risk(s) or efficacy issues.

[2] The table shows data for PMCs that were closed (fulfilled or released) as of FY2016. Therefore, data for PMCs that were closed in prior fiscal years are included.

[3] Percentages may not total 100 due to rounding.

[4] The total number of PMRs/PMCs established in FY2010 through FY2016 reflects the data in FDA's databases as of September 30, 2016. Because of data corrections, as well as improvements in ascertaining the PMR/PMC establishment date, some of the total numbers of PMRs/PMCs established in each fiscal year are different from those reported in the prior fiscal year's (FY2015) **Federal Register** report.

Dated: December 4, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26470 Filed 12–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6607]

Oncology Center of Excellence Listening Session; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public meeting entitled ''Oncology Center of Excellence (OCE): Listening Session.'' The purpose of the public meeting and the docket for comments is for stakeholders to provide recommendations to the Agency regarding FDA's OCE. Specifically, the Agency solicits comments regarding what stakeholders desire of the OCE in terms of structure, function, regulatory purview, and activity.

DATES: The public meeting will be held on Thursday, March 15, 2018, from 9 a.m. to 12 noon. Submit either electronic on written comments on this public meeting by April 16, 2018. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 16, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of April 16, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–6607 for ''Oncology Center of Excellence (OCE): Listening Session.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Tamy Kim, Oncology Center of Excellence, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2206, Silver Spring, MD 20993–0002,

301–796–1125, email: *Tamy.Kim@fda.hhs.gov.*

I. Background

FDA announces the establishment of a public docket and a public listening session for the OCE. As a part of 21st Century Cures Act (Cures Act), section 3073, the ''Secretary shall establish one or more Intercenter Institutes within the Agency for a major disease area or areas'' and ''shall provide a period for public comment during the time that each Institute is being implemented'' (section 1014 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 399g)). The OCE is the Agency's first Intercenter Institute.

Under the Cures Act, the purpose of an Intercenter Institute is to coordinate activities among FDA Centers, applicable to the major disease area, including coordination of staff, streamlining of review activities, promotion of scientific programs, staff recruitment and development, enhancement of interactions, and facilitation of collaborative relationships within the Department of Health and Human Services.

FDA is establishing a docket for public comment for written comments and will hold a listening session for parties who are interested in commenting verbally. This will serve as the public comment period identified under the Cures Act (section 1014(b) of the FD&C Act).

II. Topics for Discussion at the Public Meeting

The docket for public comments and public listening session will discuss the structure, function, regulatory purview, and activities of the OCE and solicit comments regarding how the public would like the OCE to be structured and what function the OCE should serve as an Intercenter Institute.

The public docket and listening session are intended to be a part of the period of public comment during the implementation of the Oncology Center of Excellence, the first Intercenter Institute at FDA. FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the meeting, and the background material will be posted on FDA's Web site after the meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced meeting detail cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's Oncology Center of Excellence Web site at *https://www.fda.gov/aboutfda/centersoffices/officeofmedicalproductsandtobacco/oce/ucm544496.htm* and scroll down to the appropriate meeting link.

III. Participating in the Public Meeting

Registration: To register for the public meeting, persons interested in attending this public meeting must register online by February 15, 2018. Please visit the following Web site to register: *https://fdaoce.formstack.com/forms/ocelisteningsession.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting must register by February 15, 2018, midnight Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted.

If you need special accommodations due to a disability, please contact Tamy Kim (see **FOR FURTHER INFORMATION CONTACT**) no later than March 1, 2018.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session, and which topic(s) you wish to address. We will do our best to accommodate requests. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by March 1, 2018. All requests to make oral presentations must be received by the close of registration on February 15, 2018. If selected for presentation, any presentation materials must be emailed to Tamy Kim (see **FOR FURTHER INFORMATION CONTACT**) no later than March 12, 2018. No commercial or promotional material will be permitted to be presented or distributed at the public meeting.

Dated: December 4, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26440 Filed 12–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–5767]

Abbreviated New Drug Applications for Certain Highly Purified Synthetic Peptide Drug Products That Refer to Listed Drugs of Recombinant Deoxyribonucleic Acid Origin; Draft Guidance for Industry; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or Agency) is extending the comment period for the notice of availability that appeared in the **Federal Register** of October 3, 2017. In the notice of availability, FDA requested comments on the draft guidance for industry entitled ''ANDAs for Certain Highly Purified Synthetic Peptide Drug Products That Refer to Listed Drugs of rDNA Origin.'' The Agency is taking this action in response to public interest in the draft guidance and to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the notice of availability published October 3, 2017 (82 FR 46075). Submit either electronic or written comments on the draft guidance by February 4, 2018, to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your

comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–5767 for ''Abbreviated New Drug Applications for Certain Highly Purified Synthetic Peptide Drug Products That Refer to Listed Drugs of Recombinant Deoxyribonucleic Acid Origin; Draft Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Gail Schmerfeld, Office of Generic Drugs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1672, Silver Spring, MD 20993–0002, 301–796–9291, *Gail.Schmerfeld@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 3, 2017, FDA published a notice of availability with a 60-day comment period to request comments on the draft guidance for industry entitled ''ANDAs for Certain Highly Purified Synthetic Peptide Drug Products That Refer to Listed Drugs of rDNA Origin.''

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the submission of ANDAs for certain highly purified synthetic peptide drug products that refer to listed drugs of rDNA origin. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This draft guidance is not subject to Executive Order 12866.

Based on public interest in the draft guidance, FDA is extending the comment period for the notice of availability for 60 days, until February 4, 2018. The Agency believes that a 60-day extension allows adequate time for interested persons to submit comments without significantly delaying guidance on these important issues.

Dated: December 4, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26436 Filed 12–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information on the Office of Disease Prevention Strategic Plan for Fiscal Years (FY) 2019–2023

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This Request for Information (RFI) is intended to gather broad public input on the FY 2019–2023 Strategic Plan for the Office of Disease Prevention (ODP) in the Division of Program Coordination, Planning, and Strategic Initiatives (DPCPSI), National Institutes of Health (NIH). The ODP invites input from prevention researchers in academia and industry, health care professionals, patient advocates and advocacy organizations, scientific or professional organizations, federal agencies, and other interested members of the public. Organizations are strongly encouraged to submit a single response that reflects the views of their organization and membership as a whole.

DATES: The ODP's Request for Information is open for public comment for a period of 45 days. Comments must be received by January 22, 2018 to ensure consideration.

ADDRESSES: Comments must be submitted electronically using the web-based form available at *https://prevention.nih.gov/strategic-plan/request-for-information.*

FOR FURTHER INFORMATION CONTACT: Please direct all inquiries to Wilma Peterman Cross, M.S.; Deputy Director, Office of Disease Prevention, National Institutes of Health; Phone: 301–827–5561; email: *prevention@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: To ensure consideration, responses must be submitted electronically using the web-based form available at *https://prevention.nih.gov/strategic-plan/request-for-information.* The web form will provide confirmation of response submission, but respondents will not receive individualized feedback. All respondents are encouraged to sign up for the ODP email list at *http://prevention.nih.gov/subscribe* to receive information related to Office activities, including updates on the development and release of the final strategic plan.

The mission of the Office of Disease Prevention (ODP) is to improve the public health by increasing the scope, quality, dissemination, and impact of prevention research supported by the

NIH. The ODP fulfills this mission by providing leadership for the development, coordination, and implementation of prevention research in collaboration with NIH Institutes, Centers, and Offices and other partners. The first ODP strategic plan was released in February 2014 and charted new directions and, at the same time, built upon and expanded existing programs. The Office has made considerable progress on the priorities identified in the initial plan, and the ODP remains committed to playing an integral role in advancing trans-NIH prevention-related activities. Input received from this Request for Information will inform the development of the final FY 2019–2023 Strategic Plan, which will outline activities coordinated by the ODP to assess, facilitate, and stimulate research in disease prevention, and disseminate the results of this research to improve public health.

The ODP is seeking input on the following strategic priorities:

- Strategic Priority I: Systematically monitor NIH investments in prevention research and the progress and results of that research.
- Strategic Priority II: Identify prevention research areas for investment or expanded effort by the NIH.
- Strategic Priority III: Promote the use of the best available methods in prevention research and support the development of better methods.
- Strategic Priority IV: Promote collaborative prevention research projects and facilitate coordination of such projects across the NIH and with other public and private entities.
- Strategic Priority V: Advance the understanding of prevention research, increase the availability of prevention research resources and programs, and enhance ODP's stakeholder engagement.

The ODP is also seeking input on the following questions:

- What new strategic priorities should the ODP consider adding to its plan?
- What opportunities or challenges in disease prevention research and methods could the ODP help to address?
- Who should the ODP partner with to address pressing needs in disease prevention research and methods?
- What areas transcend disease prevention research that the ODP should consider as it develops its new plan?

The definition of prevention research used by the ODP to guide its work and decision-making encompasses research designed to yield results directly applicable to identifying and assessing risk, developing interventions for preventing or ameliorating high-risk behaviors and exposures, the occurrence of a disease, disorder, or injury, or the progression of detectable but asymptomatic disease. Prevention research also includes research studies to develop and evaluate disease prevention, health promotion recommendations, and public health programs. The ODP definition of prevention includes the following categories of research:

- Identification of modifiable risk and protective factors for diseases/disorders/injuries
- Studies on assessment of risk, including genetic susceptibility
- Development of methods for screening and identification of markers for those at risk for onset or progression of asymptomatic diseases/disorders, or those at risk for adverse, high-risk behaviors/injuries
- Development and evaluation of interventions to promote health for groups of individuals without recognized signs or symptoms of the target condition
- Translation of proven effective prevention interventions into practice
- Effectiveness studies that examine factors related to the organization, management, financing, and adoption of prevention services and practices
- Methodological and statistical procedures for assessing risk and measuring the effects of preventive interventions.

Responses to this RFI are voluntary and may be submitted anonymously. Please do not include any personally identifiable or other information that you do not wish to make public. Proprietary, classified, confidential, or sensitive information should not be included in responses. Comments submitted will be compiled for discussion and incorporated into the strategic plan as appropriate. Any personal identifiers (personal names, email addresses, etc.) will be removed when responses are compiled.

This RFI is for informational and planning purposes only and is not a solicitation for applications or an obligation on the part of the United States (U.S.) Government to provide support for any ideas identified in response to it. Please note that the U.S. Government will not pay for the preparation of any information submitted or for use of that information.

Dated: December 1, 2017.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2017–26453 Filed 12–7–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; A Generic Submission for Formative Research, Pre-testing, Stakeholder Measures and Advocate Forms at NCI (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Amy Williams, Director of the Office of Advocacy Relations (OAR), NCI, NIH, 31 Center Drive, Bldg. 31, Room 10A28, MSC 2580, Bethesda, MD 20892, call non-toll-free number 240–781–3406, or email your request, including your address, to *amy.williams@nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on October 2, 2017, page 45870 (82 FR 45870) and allowed 60 days for public comment. No public comments were received. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National

Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection Title: A Generic Submission for Formative Research, Pre-testing, Stakeholder Measures and Advocate Forms at NCI, 0925- 0641. Extension. National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a request for OMB to approve the extension of the generic collection titled, ''A Generic Submission for Formative Research, Pre-testing, Stakeholder Measures and Advocate Forms at NCI'' for an additional three years of data collection. The Office of Advocacy Relations (OAR) disseminates cancer-related information to a variety of stakeholders, seeks input and feedback, and facilitates collaboration to advance NCI's authorized programs. It is beneficial for NCI, through the OAR, to pretest strategies, concepts, activities and materials while they are under development. Additionally, administrative forms are a necessary part of collecting demographic information and areas of interest for advocates. Since OAR is responsible for matching advocates to NCI programs and initiatives across the cancer continuum, it is necessary to measure the satisfaction of both internal and external stakeholders with this collaboration. This customer satisfaction research helps ensure the relevance, utility, and appropriateness of the many initiatives and products that OAR and NCI produce. The OAR will use a variety of qualitative (interviews) methodology to conduct this research, allowing NCI to: (1) Understand characteristics (attitudes, beliefs, and behaviors) of the intended target audience and use this information in the development of effective strategies, concepts, activities; (2) use a feedback loop to help refine, revise, and enhance OAR's efforts—ensuring that they have the greatest relevance, utility, appropriateness, and impact for/to target audiences; and (3) expend limited program resource dollars wisely and effectively. The anticipated respondents will consist of: Adult cancer research advocates; members of the public; health care professionals; and organizational representatives.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 45.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Individual In-Depth Interviews	40	1	30/60	20
Profile Completion	50	1	30/60	25
Total	90	90		45

Dated: December 2, 2017.

Karla Bailey,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2017–26495 Filed 12–7–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: N-Acetyl Mannosamine as a Therapeutic Agent

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Human Genome Research Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in the Patents and Patent Applications listed in the **SUPPLEMENTARY INFORMATION** section of this notice to Leadiant Biosciences, Inc, located in Gaithersburg, Maryland, USA.

DATES: Only written comments and/or applications for a license which are received by the National Human Genome Research Institute's Technology Transfer Office on or before December 26, 2017 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Eggerton Campbell, Ph.D., Senior Licensing and Patenting Manager, Technology Transfer Office (TTO), National Human Genome Research Institute (NHGRI), National Institutes of Health (NIH), 5635 Fishers Lane, Suite 3058, MSC 9307, Bethesda, MD 20892–9307. Telephone: 301–402–1648. Fax: 301–402–9722. email: *eggerton.campbell@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

U.S. Provisional Patent Application No.: 60/932,451, [HHS Ref. No.: E–217–2007/0–US–01], Filed May 31, 2007; PCT Patent Application No.: PCT/US2008/006895, [HHS Ref. No.: E–217–2007/0–PCT–02], Filed: May 30, 2008; CA Patent Application 2680842, [HHS Ref. No.: E–217–2007/0–CA–03], Filed: May 30, 2008; EP Patent Application No.: 08767999.9, [HHS Ref. No.: E–217–2007/0–EP–04], Filed: September 14, 2009; IL Patent Application No.: 200872, [HHS Ref. No.: E–217–2007/0–IL–05], Filed: May 30, 2008; JP Patent Application No.: 2010–510363, [HHS Ref. No.: E–217–2007/0–JP–06, Filed: May 30, 2008; U.S. Patent Application No.: 12/530,433, [HHS Ref. No.: E–217–2007/0–US–07], Filed: Sept 8, 2009; U.S. Patent Application No.: 13/791,576, [HHS Ref. No.: E–217–2007/0–US–08], Filed: March 8, 2013; JP Patent Application No.: 2014–208695, [HHS Ref. No.: E–217–2007/0–JP–09], Filed: May 30, 2008; U.S. Patent Application No.: 14/754,304, [HHS Ref. No.: E–217–2007/0–US–10], Filed: June 29, 2015; CA Patent Application No.: 2903133, [HHS Ref. No.: E–217–2007/0–CA–11], Filed: May 30, 2008; IL Patent Application No.: 245026, [HHS Ref. No.: E–217–2007/0–IL–12], Filed: March 8, 2013; JP Patent Application No.: 2016–159061, [HHS Ref. No.: E–217–2007/0–JP–13], Filed: August 15, 2016; EP Patent Application No.: 16196935.7, [HHS Ref. No.: E–217–2007/0–EP–14], Filed: March 8, 2013; U.S. Patent Application No.: 15/702,529, [HHS Ref. No.: E–217–2007/0–US–08], Filed: September 12, 2017; and all continuing applications and foreign counterparts.

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the use of Licensed Patent Rights for the following: ''Treating GNE Myopathy (also referred to as distal myopathy with rimmed vacuoles (DMRV), Nonaka myopathy, muscular dystrophy hereditary inclusion body myopathy (HIBM) or inclusion body myopathy type 2 (IBM2)) and kidney disorders due to hyposialylation of the glomerulae or sialic acid deficiency including but not limited to minimal change disease glomerulopathy, focal segmental glomerulosclerosis and membranous nephropathy, in humans with oral formulations of N-acetyl mannosamine (ManNAc) or derivative.''

N-Acetyl Mannosamine is a precursor for the synthesis of sugar molecules known as sialic acids which play an important role in specific biological processes such as cellular adhesion, cellular communication and signal transduction. Lack of sialic acids also play an important role in disease processes such as cancer, inflammation and immunity.

This invention relates to methods of administering ManNAc or its derivative (to produce sialic acid in patients who are deficient in the sugar molecule) to treat GNE Myopathy (also referred to as distal myopathy with rimmed vacuoles (DMRV), Nonaka myopathy, muscular dystrophy hereditary inclusion body myopathy (HIBM) or inclusion body myopathy type 2 (IBM2)), and kidney disorders due to hyposialylation of the glomerulae or sialic acid deficiency may be treated by this method as well.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Human Genome Research Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: November 30, 2017.

Claire T. Driscoll,

Director, NHGRI Technology Transfer Office.

[FR Doc. 2017–26540 Filed 12–7–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Revenue Modernization: Mobile Collections & Receipt (MCR) Pilot

AGENCY: U.S. Customs and Border Protection; DHS.

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) will be conducting a pilot test program to allow for the electronic payment of certain taxes and fees imposed on commercial vessels prior to or upon a vessel's arrival at four designated ports of entry. The pilot also introduces portable, electronic devices that authorized CBP employees will use to electronically process payments of certain taxes and fees and to send electronic receipts via email. The pilot will not affect the amount of taxes and fees due, the clearance process, or the proof of documentation required to be presented to CBP. This notice describes the pilot, including its purpose, procedures, locations, and how to participate, and invites public comment on any aspect of the pilot.

DATES: The pilot will begin no earlier than January 8, 2018 and will continue for 18 months at the designated ports of entry. Comments concerning this notice and all aspects of the pilot may be submitted at any time during the pilot to the address set forth below.

ADDRESSES: Written comments concerning any aspect of the pilot should be submitted to the CBP Revenue Modernization (''Rev Mod'') Office at *revmod@cbp.dhs.gov.* In the subject line of your email please indicate ''Comment on Mobile Collections & Receipt Pilot.''

FOR FURTHER INFORMATION CONTACT: Kathleen Druitt, Rev Mod Program Manager, Office of Finance, U.S. Customs and Border Protection, via email at *kathleen.c.druitt@cbp.dhs.gov* or by telephone at (202) 427–8448. For additional information, please visit *www.cbp.gov/368.*

SUPPLEMENTARY INFORMATION:

Background

U.S. Customs and Border Protection (CBP) collects various maritime taxes and fees with regard to commercial vessels that enter ports of entry, proceed coast-wise, or utilize certain customs services at a port. These maritime taxes and fees include tonnage taxes and light money, Consolidated Omnibus Budget Reconciliation Act (COBRA) user fees, Agriculture Quarantine and Inspection (AQI) user fees, and navigation fees.[1] CBP regulations require payment of these taxes and fees by cash or check and specify a paper-based payment process that occurs at the ports.

Current Payment Methods

CBP regulations require that most customs duties, taxes, fees, interest, and other charges be paid by cash or check. *See* title 19 Code of Federal Regulations section 24.1 (19 CFR 24.1). Accordingly, a party responsible for the payment of commercial vessel maritime taxes and fees must pay all applicable tonnage taxes, light money, COBRA user fees, AQI user fees, and navigation fees, including the prepayment of annual COBRA user fees, by cash or check only. Maritime taxes and fees cannot be paid by credit card or through any other electronic method.

Current Payment Process

Pursuant to CBP regulations, maritime taxes and fees are paid at the port to an authorized CBP employee either onboard the vessel or at the port office. *See* 19 CFR 24.2. Specifically, all applicable tonnage taxes, light money, and COBRA user fees must be paid to an authorized CBP employee on arrival at a port of entry. *See* 19 CFR 4.20 (tonnage taxes and light money) and 19 CFR 24.22(b) (COBRA user fee). Annual COBRA user fees may be prepaid. In such case, they must be paid at the port office. *See* 19 CFR 24.22(b)(3). Navigation fees and AQI user fees must be paid at the time the applicable service is provided. *See* 19 CFR 4.98 (navigation fees) and 7 CFR 354.3(b) (AQI user fee).

When a cash register is unavailable to process a payment, such as when

[1] *See* 46 U.S.C. 60301–60303 and 19 CFR 4.20–4.23 (tonnage tax and light money); 19 U.S.C. 58c and 19 CFR 24.22(b) (COBRA user fees); 19 U.S.C. 58a and 19 CFR 4.98 (navigation fees); and 21 U.S.C. 136a and 7 CFR 354.3(b) (AQI user fees). CBP collects AQI user fees pursuant to an inter-agency agreement with the U.S. Department of Agriculture's Animal and Plant Health Inspection Service.

payment is made directly to a CBP officer, the officer must process the payment by filling out CBP Collection Receipt Form 368 (Form 368) and, if tonnage tax is paid, a Certificate of Payment of Tonnage Tax Form 1002 (Form 1002). *See* 19 CFR 4.23. Form 368 is used to process payments of maritime taxes and fees. It is a serially-numbered, triplicate carbon-copy form that comes in books of 50. Form 1002 is used by CBP to confirm a vessel owner's payment of tonnage tax. It is a serially-numbered, carbon-copy duplicate form. Both forms are used by vessel owners to provide evidence to CBP officers at other ports or at subsequent entries that a particular tax or fee has been paid.

In order to process a payment using Form 368 or 1002, the CBP officer must manually calculate the applicable taxes and fees due, manually complete the forms, and collect the cash or check payment. CBP employees must then process the payment by manually entering the payment information into CBP systems. CBP must treat the Form 368 books as cash and must perform multiple processes to ensure their security and accuracy, including taking inventory, auditing completed books, auditing in-use books, accounting for lost books, and investigating any alleged misuse of books. Additionally, a CBP officer who collects payment for an amount over $100 in the form of a government check, personal check, traveler's check, or money order must obtain the approval and signature of the Customs officer in charge in order to accept the payment. *See* 19 CFR 24.1(b)(2). Upon payment, the CBP officer provides the commercial vessel operator with a carbon copy of the completed Form 368 and Form 1002, if applicable, which the vessel operator may use as proof of payment at subsequent ports and entries.

Revenue Modernization: Mobile Collections & Receipt Pilot

The Mobile Collections & Receipt (MCR) pilot introduces the MCR system, which through its interface with *Pay.gov*[2] and the Automated Commercial Environment (ACE), will enable entities that are participating in the pilot to pay certain commercial vessel taxes and fees online upon or prior to the vessel's arrival at designated ports of entry. The commercial vessel maritime taxes and fees eligible for payment online through this pilot are: regular tonnage tax, special tonnage tax, light money, COBRA user fees, including the prepayment of the annual COBRA fee, AQI user fees, and navigation fees. Additionally, pursuant to the pilot, CBP will use the MCR system to electronically process payments of commercial vessel taxes and fees made at the port and to send electronic versions of Forms 368 and 1002 via email.

Purpose of the Pilot

CBP is working towards the elimination of cash and check payments of maritime taxes and fees by allowing for electronic payments and automating the collection and receipt process. The purpose of the MCR pilot is to modernize the payment and processing of commercial vessel maritime taxes and fees for pilot participants by introducing a new optional electronic payment method, automating the calculation of fees, and introducing electronic receipts.

The pilot will provide benefits to both CBP and to commercial vessel owners and operators. Cash and check collection at the port of entry is a manual, burdensome, and time-consuming process. The automation and online payment option for certain taxes and fees will reduce the time necessary to accept and process a payment, improve processing and clearance times of vessels, and ensure applicable fees are calculated correctly. This will result in cost savings for pilot participants.

Additionally, the pilot will enable CBP to process the collection, accounting, and transmittal of maritime taxes and fees more efficiently. Under the pilot, CBP officers will no longer be required to manually calculate applicable fees, manually complete Forms 368 and 1002, perform the various manual audit and security processes related to the protection of Form 368 books, or manually enter data when payments are made by cash or check. Under the pilot, CBP officers will not be required to obtain the signature of the Customs officer in charge for payments over $100 made with a government check, personal check, traveler's check, or money order. These increased efficiencies will provide CBP officers more time to perform higher priority mission support activities.

Participation in the Pilot

Any commercial vessel agent or other entity responsible for payment of commercial vessel taxes and fees at designated ports of entry may participate in the pilot. At this time, only four ports of entry, discussed below, are designated. No application is required to participate. However, in order to receive notification emails from the MCR system, a commercial vessel agent or other party submitting payment must create an MCR profile and maintain a valid email address as part of the profile. For more information and for instructions on how to create an MCR profile, visit *www.cbp.gov/368.* When a commercial vessel arrives at a designated port, the vessel's agent or other party wishing to receive email notifications or receive electronic versions of Forms 368 and 1002 will be able to confirm his or her email address and provide additional email addresses for this purpose.

Description and Implementation of the Pilot

The MCR pilot authorizes entities that are participating in the pilot to pay certain commercial vessel taxes and fees online through the MCR Web site with respect to vessels arriving at designated ports of entry. Additionally, CBP employees will be able to access the MCR system through either a portable, electronic device or a desktop computer to view commercial vessel arrival data, automatically calculate applicable fees, electronically process payments, create electronic versions of Forms 368 and 1002, and send the forms via email.

Online Payments

The MCR system will automatically identify the commercial vessels that are due to arrive within a certain number of days at the designated ports of entry. The MCR system will then determine whether the arrival information submitted to CBP through approved electronic data interchange systems, such as ACE, is sufficient to calculate the applicable maritime taxes and fees due for each commercial vessel. If there is sufficient information, CBP will send a notification email to those carriers or vessel agents that have created a profile with the MCR system. The notification email will state that the applicable maritime taxes and fees have been calculated for a specific commercial vessel and payment can now be made on the MCR Web site. The party responsible for payment will then have the opportunity to log-on to the MCR Web site, review the calculated amount of taxes and fees due, and, through MCR's interface with *Pay.gov,* submit payment online through *Pay.gov.* After payment is accepted, the MCR system will send an electronic version of Form 368 and Form 1002, if applicable, to the email address or addresses provided by the party that made the payment. Electronic payments will be accepted on the MCR Web site from prior to the

[2] *Pay.gov* is a Web site managed by the Department of Treasury that enables individuals to make online payments to the federal government using various forms of payment, including credit cards, debit cards, direct debit, or digital wallet services such as PayPal.

vessel's arrival and up to the time the vessel is cleared by CBP. Payments required for CBP clearance must be made before clearance is granted.

Only commercial vessel maritime taxes and fees are eligible for prepayment online through this pilot. The commercial vessel maritime taxes and fees eligible for potential prepayment online through this pilot are: Regular tonnage tax, special tonnage tax, light money, COBRA user fees, including the prepayment of the annual COBRA fee, AQI user fees, and navigation fees. CBP may expand the pilot to include additional taxes and fees. Any expansion of the fees that are eligible for online payment will be announced in the **Federal Register** and posted on the CBP Web site, *http://www.cbp.gov.*

Process at the Designated Ports of Entry

When a commercial vessel arrives at a designated port of entry, a CBP employee will access the MCR system to determine whether the applicable taxes and fees have been prepaid online for that vessel. If the applicable taxes and fees have not been prepaid online, the vessel agent or other party responsible for payment will have the option to pay all applicable taxes and fees either electronically through the MCR system or at the port of entry with cash or check. If payment is made by cash or check, the CBP officer accepting payment will access the MCR system to review any relevant arrival information, automatically calculate the applicable fees, prepare an electronic version of Form 368 and Form 1002, if applicable, and email an electronic copy of the forms to the vessel operator, owner, or agent. In all situations, CBP officers will have the ability to review, amend, or add data as needed to accurately calculate applicable taxes and fees prior to entering or clearing a vessel.

Throughout the pilot, commercial vessel agents and other entities responsible for payment will continue to be able to pay applicable maritime taxes and fees to an authorized CBP employee by cash or check. CBP will provide electronic versions of Forms 368 and 1002 as a receipt for all payments, regardless of whether payment was made in person by cash or check or paid online. The port office will provide paper copies of Forms 368 and 1002 upon request.

This pilot will not affect the amount of taxes and fees due or the requirement that all applicable fees must be paid prior to the issuance of a clearance certificate. Additionally, vessel operators will continue to be required to present paper copies of Forms 368 and 1002 as proof of payment at subsequent ports and entries.

Designated Ports of Entry and Duration of the Pilot

The pilot will initially operate at the following ports of entry: Los Angeles-Long Beach, California; New Orleans, Louisiana; Gulfport, Mississippi; and, Mobile, Alabama.

The pilot will begin no earlier than January 8, 2018 and will continue for 18 months. If it is determined that the pilot is working successfully at these initial ports, the pilot may be expanded to additional ports of entry, extended for an additional period of time, and/or expanded to include additional maritime fees, taking into consideration any comments that are received. Any expansion or extension of the pilot would be announced in the **Federal Register**.

Privacy

CBP will ensure that all Privacy Act requirements and applicable policies are adhered to during the implementation of this pilot.

Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3507(d)) requires that CBP consider the impact of paperwork and other information collection burdens imposed on the public. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget. There is no information collection associated with this pilot, so the provisions of the PRA do not apply.

Authorization for the Pilot

This pilot is being conducted in accordance with 19 CFR 101.9(a), which authorizes the Commissioner to impose requirements different from those specified in the CBP regulations for the purposes of conducting a test program or procedure designed to evaluate the effectiveness of new technology or operational procedures regarding the processing of passengers, vessels, or merchandise. For participants in this pilot, CBP will waive the requirements to pay tonnage tax, light money, COBRA user fees, AQI user fees, and navigation fees by cash or check at the time of arrival or when the applicable service is provided, if the participant has paid all applicable taxes and fees due online prior to the vessel's arrival or prior to the time the vessel is cleared by CBP. The pilot also permits CBP officers to process the payment of checks over $100 without obtaining authorization from the Customs officer in charge.

Dated: December 5, 2017.

Sean Mildrew,

Acting Assistant Commissioner, Office of Finance.

[FR Doc. 2017–26505 Filed 12–7–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Delay of Transition of the Generating, Transmitting and Updating of Daily and Monthly Statements from the Automated Commercial System to the Automated Commercial Environment

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Delay of transition of statement processing.

SUMMARY: On November 8, 2017, U.S. Customs and Border Protection (CBP) published a notice in the **Federal Register** announcing plans to make the Automated Commercial Environment (ACE) the sole electronic data interchange (EDI) system authorized by CBP for generating, transmitting, and updating daily and monthly statements for all entries except reconciliation (type 09) entries. The changes announced in that notice were to become operational on December 9, 2017. This notice announces that the date for the transition to ACE as the sole CBP-authorized EDI system for statement processing is delayed until January 6, 2018. ACE will not be the official system of records for statements until that time.

DATES: As of January 6, 2018, ACE will be the sole CBP-authorized EDI system for generating, transmitting, and updating daily and monthly statements, and the Automated Commercial System (ACS) will no longer be a CBP-authorized EDI system for such purpose.

FOR FURTHER INFORMATION CONTACT: For policy-related questions, contact Randy Mitchell, Commercial Operations, Revenue and Entry, Trade Policy and Programs, Office of Trade, via email at *otentrysummary@cbp.dhs.gov,* or telephone at (202) 863–6532. For technical questions, contact Celestine Harrell, Revenue Modernization Branch, Trade Transformation Office, Office of Trade, via email at *Celestine.Harrell@cbp.dhs.gov,* or telephone at (202) 325–0101, with a subject line identifier reading ''Statement Processing in ACE''.

SUPPLEMENTARY INFORMATION: On November 8, 2017, U.S. Customs and Border Protection (CBP) published a notice in the **Federal Register** (82 FR 51852) announcing plans to make the Automated Commercial Environment (ACE) the sole electronic data interchange (EDI) system authorized by CBP for generating, transmitting, and updating daily and monthly statements for all entries except reconciliation (type 09) entries as of December 8, 2017. The document also announced that, beginning on December 8, 2017, the Automated Commercial System (ACS) would no longer be a CBP-authorized EDI system for such purposes.

This notice announces that beginning January 6, 2018, ACE will become the sole CBP-authorized EDI system for processing daily and monthly statements, and ACS will no longer be a CBP-authorized EDI system for such purpose.

Dated: December 5, 2017.

Cynthia F. Whittenburg,

Deputy Executive Assistant Commissioner, Office of Trade.

[FR Doc. 2017–26481 Filed 12–7–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, With Changes, of an Existing Information Collection; Comment Request

ACTION: 60-Day notice of information collection for review; Form No. I–901; Fee Remittance for Certain F, J and M Non-immigrants; OMB Control No. 1653–0034.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until February 6, 2018.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the PRA Clearance Officer for USICE and sent via electronic mail to *icepra@ice.dhs.gov.*

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, with changes, of a currently approved information collection.

(2) *Title of the Form/Collection:* I–901, Fee Remittance for Certain F, J and M Nonimmigrants.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–901, U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Public Law 104–208, Subtitle D, Section 641 directs the Attorney General, in consultation with the Secretary of State and the Secretary of Education, to develop and conduct a program to collect information on nonimmigrant foreign students and exchange visitors from approved institutions of higher education, as defined in section 101(a) of the Higher Education Act of 1965, as amended or in a program of study at any other DHS approved academic or language-training institution, to include approved private elementary and secondary schools and public secondary schools, and from approved exchange visitor program sponsors designated by the Department of State (DOS).

The rule, ''Adjusting Program Fees and Establishing Procedures for Out-of-Cycle Review and Recertification of Schools Certified by the Student and Exchange Visitor Program to Enroll F and/or M Nonimmigrant Students,'' (73 FR 55683; September 26, 2008), authorized a fee to be collected from the F and M nonimmigrants, not to exceed $200, and a fee to be collected from the exchange visitors, not to exceed $180, to support this information collection program. DHS has implemented the Student and Exchange Visitor Information System (SEVIS) to carry out this statutory requirement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 740,410 responses at 19 minutes (.32 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 236,931 annual burden hours.

Dated: December 5, 2017.

Scott Elmore,

PRA Clearance Officer, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2017–26530 Filed 12–7–17; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–73]

30-Day Notice of Proposed Information Collection: Requirements for Single Family Mortgage Instruments

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: January 8, 2018.*

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: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email

Colette.Pollard@hud.gov, or telephone 202–402–3400. 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. Pollard.

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 August 29, 2017.

A. Overview of Information Collection

Title of Information Collection: Requirements for Single Family Mortgage Instruments.

OMB Approval Number: 2502–0404.

Type of Request: Extension.

Form Number: None

Description of the need for the information and proposed use: This information is used to verify that a mortgage has been properly recorded and is eligible for FHA insurance.

Respondents (*i.e.* affected public): Individuals or household.

Estimated Number of Respondents: 15,871.

Estimated Number of Responses: 1,306,931.

Frequency of Response: one per mortgage.

Average Hours per Response: 5 minutes.

Total Estimated Burdens: 108,911.

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.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: November 14, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–26526 Filed 12–7–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–77]

30-Day Notice of Proposed Information Collection: Family Self-Sufficiency Program Demonstration

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 an additional 30 days of public comment.

DATES: *Comments Due Date: January 8, 2018.*

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 P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. 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. Guido.

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 32571.

A. Overview of Information Collection

Title of Information Collection: Family Self-Sufficiency Demonstration.

OMB Approval Number: 2528–0296.

Type of Request: Revision of a currently approved collection.

Form Number: No forms.

Description of the need for the information and proposed use: The Department is conducting this study under contract with MDRC and its subcontractor (M. Davis and Company, Inc.) and consultants. The project is an evaluation of the Family Self-Sufficiency (FSS) Program operated at Public Housing Agencies (PHAs) across the U.S. The study will use random assignment methods to evaluate the effectiveness of the program. FSS has operated since 1992 and serves voucher holders and residents of public housing. The FSS model is essentially case management plus an escrow account. FSS case managers create a plan with families to achieve goals and connect with services that will enhance their employment opportunities. Families accrue money in their escrow accounts as they increase their earnings.

To date, HUD has funded two other studies of the FSS program, but neither can tell us how well families would have done in the absence of the program. A random assignment model is needed because participant self-selection into FSS limits the ability to know whether program features rather than the characteristics of the participating families caused tenant income gains. Random assignment will limit the extent to which selection bias is driving observed results.

The demonstration underway will document the progress of a group of FSS participants from initial enrollment to program completion (or exit). The intent is to gain a deeper understanding of the program and illustrate strategies that assist participants to obtain greater economic independence. While the main objective of FSS is stable, suitable employment, there are many interim outcomes of interest, which include: Getting a first job; getting a higher paying job; self-employment/small business ownership; no longer needing benefits provided under one or more welfare programs; obtaining additional education, whether in the form of a high school diploma, higher education degree, or vocational training; buying a home; buying a car; setting up savings accounts; or accomplishing similar goals that lead to economic independence.

Data for this evaluation are being gathered through a variety of methods

including informational interviews and discussions, direct observation, and focus groups. The work covered under this information request is for interviews with PHA staff, partners, and study participants receiving FSS services.

Respondents: For the annual web-based partnership survey and weekly time text survey, 100 respondents from the grantee and key project partner at 7 demonstration sites.

For the monthly web-based time survey, 35 supervisory staff.

Respondents:

PHA and Partner Staff	90
Individuals receiving subsidized housing and enrolled in the FSS program (treatment group)	90

Table 1

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Study Participant Interviews and/or Focus Groups	90.00	1.00	90.00	1.50	135.00	[1] 7.25	978.75
PHA Staff Interviews (on-site)	27.00	1.00	27.00	1.50	40.50	[2] 25.92	1,049.76
PHA Staff Interviews (telephone)	18.00	1.00	18.00	1.50	27.00	[2] 25.92	699.84
Cost Study Data Collection Activities with PHA staff	18.00	1.00	18.00	2.00	36.00	[3] 35.97	1,294.92
FSS Partner Staff Interviews	27.00	1.00	27.00	1.50	40.50	[3] 35.97	1,456.79
Total	180.00				279.00		5,480.06

[1] Households participating in the Family Self-Sufficiency Demonstration will range widely in employment position and earnings. We have estimated the hourly wage at the expected prevailing minimum wage, which is $7.25 per hour. While we expect about 50 percent of the participants to be employed at the time of study entry (based on a report by the Center on Budget and Policy Priorities, wherein some 55 percent of non-elderly, non-disabled households receiving voucher assistance reported earned income in 2010. (*http://www.cbpp.org/cms/?fa=view&id=3634)*), the calculation above assumes an up to amount if all participants were employed.

[2] For program staff participating in interviews, the $25.91 estimate uses the median hourly wages of selected occupations (classified by Standard Occupational Classification (SOC) codes) and was sourced from the Occupational Employment Statistics from the U.S. Department of Labor's Bureau of Labor Statistics. Potentially relevant occupations and their median hourly wages are:

Occupation	SOC code	Median hourly wage rate
Community and Social Service Specialist	21–1099	$20.73
Social/community Service Manager	11–9151	31.10

Source: Occupational Employment Statistics, accessed online October 16, 2017 at *http://www.bls.gov/oes/current/oes_stru.htm.*

[3] For program staff supporting data extraction activities and FSS Partner staff, the estimate uses the median hourly wages of selected relevant occupations in a manner similar to the above. A standard wage assumption of $35.97hr was created by averaging median hourly wage rates for these occupations:

Occupation	SOC code	Median hourly wage rate
Database Administrator	15–1141	$40.84
Social/community Service Manager	11–9151	31.10

Source: Occupational Employment Statistics, accessed online October 16, 2017 at *http://www.bls.gov/oes/current/oes_stru.htm.*

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: November 17, 2017.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–26522 Filed 12–7–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–76]

30-Day Notice of Proposed Information Collection: Evaluation of the HUD–DOJ Pay for Success Re-Entry Permanent Supportive Housing Demonstration

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 an additional 30 days of public comment.

DATES: *Comments Due Date: January 8, 2018.*

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 P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. 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. Guido.

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 August 25, 2017 at 82 FR 40586.

A. Overview of Information Collection

Title of Information Collection: Evaluation of the HUD–DOJ Pay for Success Permanent Supportive Housing Demonstration.

OMB Approval Number: 2528–New.

Type of Request: New.

Form Number: No forms.

Description of the need for the information and proposed use: The U.S. Departments of Housing and Urban Development (HUD) and Justice (DOJ) entered into an interagency collaboration that combines DOJ's mission to promote safer communities by focusing on the reentry population with HUD's mission to end chronic homelessness. This collaboration resulted in the Pay for Success Permanent Supportive Housing Demonstration with $8.68M awarded to seven communities to develop supportive housing for persons cycling between the jail or prison systems and the homeless service systems using pay for success (PFS) as a funding mechanism. HUD–DOJ announced seven grantees from across the country in June 2016. The PFS Demonstration grant supports activities throughout the PFS lifecycle, including feasibility analysis, transaction structuring, and outcome evaluation and success payments, with each grantee receiving funds for different stages in the PFS lifecycle. Through the national evaluation, which is funded through an interagency agreement between HUD and DOJ and managed by HUD's Office of Policy Development and Research, HUD–DOJ seek to assess whether PFS is a viable model for scaling supportive housing to improve outcomes for a re-entry population. The main goal of the evaluation is to learn how the PFS model is implemented in diverse settings with different structures, populations, and community contexts. The Urban Institute has designed a multi-disciplinary, multi-method approach to ''learn as we do'' and meet the key objectives of the formative evaluation. To understand project implementation, the evaluation includes data collection on both the time that project partners dedicate to each PFS project as well as PFS partner perceptions and interactions and community-level changes that may benefit the target population. This information collection request is for an ongoing time survey and an annual partnership web survey. The time survey will be used to assess staff time spent on development of each PFS project throughout the different lifecycle phases and the partnership survey will be used to document partner perceptions and interactions and community-level changes that may benefit the target population.

Respondents: For the annual web-based partnership survey and weekly time text survey, 100 respondents from the grantee and key project partner at 7 demonstration sites. For the monthly web-based time survey, 35 supervisory staff.

Respondents:

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Annual Web-Based Partnership Survey	100.00	1.00	100.00	0.25	25.00	25.92	$648.00
Weekly Time Text Survey	100.00	52.00	5,200.00	0.03	156.00	25.92	4,043.52
Monthly Web-Based Time Survey	35.00	12.00	420.00	0.17	71.40	31.10	2,220.54
Total	235.00				252.40		6,912.06

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: November 15, 2017.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–26525 Filed 12–7–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2017–N142]; [FF09E42000 178 FXES11130900000]

Endangered Species; Issuance of Recovery Permits and Interstate Commerce Permits January 2, 2017, through June 30, 2017

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, have issued permits to conduct activities with endangered and threatened species under the authority of the Endangered Species Act, as amended (ESA). With some exceptions, the ESA prohibits activities involving

listed species unless a Federal permit is issued that allows such activity. We provide this list for the convenience of the public as a summary of our permit issuances for the first 6 months of calendar year 2017.

FOR FURTHER INFORMATION CONTACT: See the contact information in the Permits Issued section.

SUPPLEMENTARY INFORMATION: We have issued permits to conduct activities with endangered and threatened species in response to recovery permit applications that we received under the authority of section 10(a)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.;* ESA). These permits were issued between January 1, 2017, and June 30, 2017. Each permit was issued only after we determined that it was applied for in good faith, that granting the permit would not be to the disadvantage of the listed species, that the proposed activities were for scientific research or would benefit the recovery or the enhancement of survival of the species, and that the terms and conditions of the permits were consistent with the purposes and policy set forth in the ESA.

Permits Issued

Region 1 (Pacific Region: Hawaii, Idaho, Oregon (except for the Klamath Basin), Washington, American Samoa, Commonwealth of the Northern Mariana Islands, Guam, and the Pacific Trust Territories)

The following permits were applied for and issued in Region 1. For more information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR1ES@fws.gov* or by telephone at 503–231–6131.

Permit No.	Date issued	Applicant name
005901	01/19/17	BUREAU OF LAND MANAGEMENT.
86029B	01/20/17	JOINT BASE LEWIS–MCCHORD.
08607C	01/25/17	SAMISH INDIAN NATION.
05083C	02/02/17	SCHWAB, NATHAN A.
56898B	02/27/17	BOWERMAN, WILLIAM J.
054395	03/02/17	BUREAU OF LAND MANAGEMENT, MEDFORD DISTRICT OFFICE.
146777	03/02/17	DIBBEN–YOUNG, ARLEONE.
79902A	03/06/17	UNIVERSITY OF OREGON.
94776A	03/08/17	IDAHO COOPERATIVE FISH AND WILDLIFE RESEARCH UNIT.
02670A	03/13/17	ROBERTSON, IAN C.
197936	03/15/17	THE NATURE CONSERVANCY.
89863B	03/17/17	OREGON STATE UNIVERSITY.
80538A	03/20/17	H.T. HARVEY & ASSOCIATES.
040238	03/27/17	YAKAMA NATION WILDLIFE PROGRAM.
068143	03/27/17	EASTERN WASHINGTON UNIVERSITY.
22353B	03/27/17	CENTER FOR NATURAL LANDS MANAGEMENT.
63382B	03/29/17	NYMAN, STEPHEN.
040827	04/05/17	WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES.
001598	04/10/17	BUREAU OF INDIAN AFFAIRS—NEZ PERCE TRIBE.
20533C	04/17/17	KAYLOR, MATTHEW JOSEPH.
24861C	05/10/17	MOUNT RAINIER NATIONAL PARK.
001823	05/25/17	WALLOWA–WHITMAN NATIONAL FOREST.
19076C	05/31/17	GUAM DEPARTMENT OF AGRICULTURE—DIVISION OF AQUATIC AND WILDLIFE RESOURCES.
088853	06/02/17	WINDWARD ENVIRONMENTAL LLC.
19045C	06/02/17	HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES—DIVISION OF FORESTRY AND WILDLIFE.
78052A	06/13/17	COASTAL WATERSHED INSTITUTE.
22702C	06/14/17	INTERMOUNTAIN BIRD OBSERVATORY.
31672C	06/14/17	ENGINEER RESEARCH AND DEVELOPMENT CENTER—COLD REGIONS RESEARCH AND ENGINEERING LABORATORY.
22353B	06/21/17	CENTER FOR NATURAL LANDS MANAGEMENT.
842449	06/22/17	OLYMPIC NATIONAL PARK.
85447A	06/22/17	WEST FORK ENVIRONMENTAL, INC.
19239B	06/27/17	WASHINGTON DEPARTMENT OF FISH AND WILDLIFE.
31850C	06/28/17	U.S. BUREAU OF RECLAMATION.

Region 2 (Southwest Region: Arizona, New Mexico, Oklahoma, and Texas)

The following permits were applied for and issued in Region 2. For more information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR2ES@fws.gov* or by telephone at 505–248–6665.

Permit No.	Date issued	Applicant name
041875	01/04/17	KOPROWSKI, JOHN.
02164C	02/21/17	UNIVERSITY OF ARIZONA.
87860B	03/06/17	GREEN, DANA M.
87857B	03/06/17	GREEN, ERIC NATHANIEL.
96189B	03/06/17	TERRY, ADAM P.
54802B	03/06/17	PHILLIPS–SCHAAP, MEGAN ELIZABETH.
18891C	03/06/17	CANNON, JOHN W.
84338B	03/06/17	LEE, ERICA T.
00540C	04/03/17	MCBEE, KAREN.

Permit No.	Date issued	Applicant name
88227B	04/03/17	DEATHERAGE, JAY BRIAN.
830177	04/03/17	UNIVERSITY OF TEXAS MARINE SCIENCE INSTITUTE.
64616B	04/06/17	NATIONAL PARK SERVICE—VALLES CALDERA NATIONAL PRESERVE.
000948	04/10/17	WESTERN NEW MEXICO UNIVERSITY.
834782	04/10/17	WESTLAND RESOURCES, INC.
830213	04/10/17	ECOPLAN ASSOCIATES, INC.
799103	04/10/17	HICKS & COMPANY.
799103	04/10/17	HICKS & COMPANY.
143922	04/10/17	BIO–SPATIAL SERVICES, INC.
24806C	04/10/17	WOODROW, REUVIN P.
24805C	04/10/17	STONE, JENNIFER M.
168185	04/17/17	COX/MCLAIN ENVIRONMENTAL CONSULTING, INC.
827726	04/17/17	U.S. FOREST SERVICE—TONTO NATIONAL FOREST.
837751	04/17/17	USDI, BUREAU OF RECLAMATION—PHOENIX.
800923	04/17/17	UNIVERSITY OF ARIZONA.
207863	04/17/17	AECOM TECHNICAL SERVICES, INC.
127287	04/17/17	AMMERMAN, LOREN K.
053085	04/17/17	BUREAU OF RECLAMATION—BOULDER CITY.
840727	04/17/17	NATIONAL PARK SERVICE.
17901C	04/17/17	VOYLES, JAMIE L.
02234C	04/17/17	UNIVERSITY OF ARIZONA.
88716B	04/17/17	CARROLL, SHAWN E.
066226	04/17/17	MOORS, AMANDA K.
069320	04/17/17	GROUNDWATER & ENVIRONMENTAL SERVICES INC.
051839	04/17/17	U.S. FISH AND WILDLIFE SERVICE, REGION 2.
37418B	04/24/17	BROWN AND GAY ENGINEERS, INC.
65178A	04/24/17	REIDY, JENNIFER L.
043231	04/24/17	STANTEC CONSULTING SERVICES, INC.
22964C	04/24/17	MEMPHIS ZOO.
92222A	04/24/17	PINTO–TORRES, ELENA C.
72079A	04/24/17	RINNE, JOHN N.
35163A	04/24/17	GRZYBOWSKI, JOSEPH A.
206016	04/30/17	MIDDICK, ANDREW R.
839848	05/01/17	USDA FOREST SERVICE—CARSON NATIONAL FOREST.
11265C	05/08/17	GLEN CANYON NATIONAL RECREATION AREA NATIONAL PARK SERVICE.
19661B	05/08/17	TETRA TECH, INC.
045236	05/08/17	SWCA ENVIRONMENTAL CONSULTANTS.
11267C	05/10/17	BUSCHOW, MARISSA ANN.
12438C	05/10/17	UNIVERSITY OF TEXAS AUSTIN.
88214B	05/10/17	MACEY, JOHN N.
168189	05/10/17	GREEN, MICHAEL CLAY.
081884	05/10/17	GLUESENKAMP, ANDREW G.
21339C	05/10/17	ANDERSEN, ERIK M.
19907C	05/10/17	MILLER, AMANDA LILLIE.
17907C	05/10/17	LANDHAWK CONSULTING LLC.
17880C	05/10/17	GARRETT, TIMOTHY BRENT.
17466C	05/10/17	DICKSON, DAVID L.
17040C	05/10/17	SAMOLLOW, PAUL B.
17037C	05/10/17	INTERNATIONAL BOUNDARY AND WATER COMMISSION.
17021C	05/10/17	BEARD, APRIL MICHELLE.
023643	05/10/17	US ARMY, III CORPS AND FORT HOOD.
48572B	05/10/17	CIENEGA ENVIRONMENTAL, INC.
828963	05/17/17	CONNORS STATE COLLEGE.
030115	05/17/17	BUREAU OF LAND MANAGEMENT—SAFFORD FIELD OFFICE.
799099	05/17/17	EAGLE ENVIRONMENTAL, INC.
97234B	05/17/17	DUGAS, AARON CHARLES.
799103	05/17/17	HICKS & COMPANY.
10642C	05/22/17	WILLIAMS, JEFFERY A.
88519A	05/22/17	U.S. FOREST SERVICE.
819475	05/22/17	BUREAU OF RECLAMATION.
082498	05/22/17	NATIONAL PARK SERVICE—FLAGSTAFF AREA NATIONAL MONUMENTS.
35437B	05/23/17	USDA FOREST SERVICE—SANTA FE NATIONAL FOREST.
041875	05/29/17	KOPROWSKI, JOHN L.
819549	05/30/17	HUALAPAI TRIBE.
32428C	05/30/17	HABITAT MANAGEMENT INC.
95112B	05/30/17	BLANCHARD ENVIRONMENTAL CONSULTING.
068189	05/30/17	ARCHAEOLOGICAL CONSULTING SERVICES, LTD.
63202B	06/02/17	CHAMBERS, CAROL L.
829761	06/09/17	BUREAU OF LAND MANAGEMENT—LAS CRUCES.
10107C	06/12/17	BANDELIER NATIONAL MONUMENT.
80964B	06/12/17	RIECK, JEAN MARIE LOVERICH.
181762	06/12/17	SEA TURTLE, INC.
84375B	06/12/17	JOHNSON, MARY ELIZABETH.
819491	06/19/17	ECOSPHERE ENVIRONMENTAL SERVICES.

Permit No.	Date issued	Applicant name
52420A	06/19/17	PIMA COUNTY, ARIZONA.
144755	06/19/17	REAGAN SMITH ENERGY SOLUTIONS, INC.
34462C	06/19/17	MENGEL, DENNIS L.
054791	06/30/17	MARSHALL, BRYCE L.
20270C	06/30/17	NATIONAL PARK SERVICE.

Region 3 (Midwest Region: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin)

The following permits were applied for and issued in Region 3. For more information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR3ES@fws.gov* or by telephone at 612–713–5343.

Permit No.	Date issued	Applicant name
64241B	02/03/17	BARKER LEMAR ENGINEERING CONSULTANTS.
11170C	02/08/17	CABLE, ASHLEIGH B.
181256	02/10/17	LEWIS ENVIRONMENTAL CONSULTING, LLC.
106217	02/27/17	TOLEDO ZOOLOGICAL SOCIETY.
194099	02/27/17	HOGGARTH, MICHAEL A.
85231B	02/27/17	KALAMAZOO NATURE CENTER.
86137B	03/27/17	THE NATURE CONSERVANCY—MINNESOTA CHAPTER.
14549C	03/29/17	HERRERA, LARISSA S.
64238B	04/11/17	KARSK, JOCELYN R.
74488B	04/11/17	MISSOURI COOPERATIVE RESEARCH UNIT.
30234C	04/19/17	ILLINOIS NATURAL HISTORY SURVEY.
13571C	04/20/17	MOORE, JENNIFER ANN.
29691C	04/20/17	GONZALEZ-SOCOLOSKE, DANIEL.
15676C	04/21/17	UNIVERSITY OF ILLINOIS.
25752C	04/25/17	EDWARD LOWE FOUNDATION.
25784C	04/27/17	KINGSBURY, BRUCE A.
30312C	04/27/17	JEFFREY G DAVIS, LLC.
04398C	05/09/17	ARNDT, ROBERT J.
30313C	05/09/17	DOUG WYNN, LCC.
86141B	05/10/17	RUSSELL, ROBIN E.
15128C	05/11/17	OHIO DEPARTMENT OF TRANSPORTATION.
01322C	05/12/17	USDA FOREST SERVICE.
99059B	05/24/17	UNIVERSITY OF WISCONSIN—MADISON.
02651A	05/25/17	OHIO DEPARTMENT OF TRANSPORTATION.
697830	05/30/17	U.S. FISH AND WILDLIFE SERVICE.
73584A	05/30/17	ILLINOIS NATURAL HISTORY SURVEY.
206781	05/31/17	ECOLOGICAL SPECIALISTS, INC.
48835A	06/02/17	APPLIED SCIENCE & TECHNOLOGY, INC.
182436	06/14/17	ILLINOIS NATURAL HISTORY SURVEY.
14588C	06/16/17	SMITH, DANE A.
15664C	06/18/17	MCKAY, APRIL I.R.
120259	06/20/17	MISSOURI DEPARTMENT OF CONSERVATION.
11135C	06/20/17	HERPETOLOGICAL RESOURCE AND MANAGEMENT, LLC.
02344A	06/22/17	MAINSTREAM COMMERCIAL DIVERS, INC.
40128B	06/22/17	MAINSTREAM COMMERCIAL DIVERS, INC.
15027A	06/29/17	STANTEC CONSULTING SERVICES, INC.

Region 4 (Southeast Region: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, Commonwealth of Puerto Rico, and the U.S. Virgin Islands)

The following permits were applied for and issued in Region 4. For more information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR4ES@fws.gov* or by telephone at 404–679–7140.

Permit No.	Date issued	Applicant name
054973	01/07/17	HADDAD, NICK.
34778A	01/09/17	U.S. GEOLOGICAL SURVEY.
089075	01/25/17	ODDY, DONNA MARIE.
13193C	01/26/17	MILLER, STEPHEN P.
14498C	02/07/17	WHITEHEAD, BRYAN JAMES.
08606C	02/09/17	JACKSONVILLE ZOOLOGICAL SOCIETY.

Permit No.	Date issued	Applicant name
14534C	02/09/17	TUCKER, MATTHEW D.
14805C	02/09/17	PIERSON, MATTHEW T.
18836C	02/13/17	NOBLIN, JOSHUA T.
070796	02/14/17	APOGEE ENVIRONMENTAL & ARCHAEOLOGICAL, INC.
20761C	02/15/17	BROPHY, TIMOTHY EARL.
20763C	02/15/17	COREY, RAYMOND L.
18508C	02/21/17	DANIEL, CHRISTOPHER ROSS.
18731C	02/21/17	WILLIAMS, GERALD ANTHONY.
19771C	02/22/17	BENKER, KARIN E.
81353B	02/25/17	PENK, STEPHANIE ROSE.
88797B	02/26/17	NOLDER, AMBER DAWN.
81587B	03/02/17	SILVIS, ALEXANDER.
207117	03/03/17	SOUTH CAROLINA PARKS, RECREATION & TOURISM.
79580A	03/07/17	BUTLER, JASON M.
81492B	03/08/17	BROOKS, DYLAN L.
54578B	03/09/17	FRAZER, MARY E.
148282	03/10/17	WILHIDE, JACK (J.D.) D.
11044C	03/10/17	NEWMAN, TYLER C.
22311A	03/13/17	GEORGE, ANNA L.
81500B	03/20/17	SAMORAY, SARA E.
13255C	03/21/17	ANGELI, STEPHEN LARRY.
087191	03/22/17	SANDHILLS ECOLOGICAL INSTITUTE.
14046C	03/31/17	MUSEUM OF SCIENCE INC.
079863	04/07/17	GANGLOFF, MICHAEL M.
28831C	04/11/17	POTT, KENNETH CHRISTOPHER.
30622C	04/13/17	KOT, MATTHEW TROY.
20269C	04/19/17	BYERLY, PAIGE A.
62778B	04/21/17	OSBORNE, CHANSTON TURNER.
810274	04/23/17	ECO–TECH CONSULTANTS, INC.
48579B	04/26/17	ECOLOGICAL SOLUTIONS INC.
33020C	04/27/17	BERTANI, PAUL J.
020890	05/01/17	NATIONAL FORESTS IN MISSISSIPPI.
114069	05/02/17	FAIRCHILD TROPICAL BOTANIC GARDEN.
33392C	05/02/17	HARRIS, AUSTIN B.
009638	05/03/17	COMPTON, TIMOTHY B.
065756	05/05/17	ALDERMAN, JOHN M.
28597A	05/05/17	ALDERMAN, JOSEPH D.
88809B	05/05/17	EATON, RAY WARREN.
206872	05/08/17	O'KEEFE, JOY MARIE.
02166C	05/09/17	BRYANT, ZOE DEANNA.
23583B	05/17/17	OBER, HOLLY K.
63349B	05/17/17	LINDEMAN, PETER V.
16616C	05/18/17	NUPP, THOMAS E.
88823B	05/19/17	SCHAETZ, BRIAN A.
48579B	05/23/17	ECOLOGICAL SOLUTIONS INC.
36768C	06/01/17	COLUMBUS STATE UNIVERSITY.
56746B	06/01/17	JOHNSON, JOSEPH S.
36080C	06/02/17	ROBBINS, KATHLEEN MCCULLOUGH.
36084C	06/02/17	ROBBINS, KATHLEEN MCCULLOUGH.
26554C	06/09/17	CENTRAL FLORIDA ZOOLOGICAL SOCIETY.
049502	06/12/17	HAAS, CAROLA A.
63633A	06/12/17	BIODIVERSITY RESEARCH INSTITUTE.
008077	06/13/17	PALIS, JOHN G.
210423	06/16/17	VOLUSIA COUNTY.
91755B	06/16/17	CLICK, NATHAN D.
56430B	06/18/17	HOOTMAN, JONATHAN ROBERT.
40523A	06/19/17	NELSON, DAVID H.
084054	06/20/17	AECOM.
12399A	06/20/17	AUDUBON NATURE INSTITUTE.
37538C	06/20/17	RAMSEY, MICHAEL E.
27450C	06/21/17	BUTLER, BENJAMIN.
53149B	06/27/17	OTTO, HANS WILLIAM.
41955C	06/29/17	MILLER, ANTHONY T.

Region 5 (Northeast Region: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia)

The following permits were applied for and issued in Region 5. For more information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR5ES@fws.gov* or by telephone at 703–358–2402.

Permit No.	Date issued	Applicant name
18682C	03/13/17	CONSERVATION FISHERIES, INC.
01721C	04/13/17	U.S. FISH AND WILDLIFE SERVICE.
14668C	04/13/17	SEA TURTLE RECOVERY.
01753C	05/03/17	BLACK BEAR HYDRO PARTNERS, LLC.
01355C	05/05/17	USFWS SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE.
86357B	06/14/17	FELLER, DANIEL.

Region 6 (Mountain-Prairie Region: Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming)

The following permits were applied for and issued in Region 6. For more information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR6ES@fws.gov* or by telephone at 719–628–2670.

Permit No.	Date issued	Applicant name
053737	01/09/17	U.S. FOREST SERVICE.
052627	01/15/17	TOLEDO ZOOLOGICAL GARDENS.
049109	01/25/17	RED BUTTE BOTANIC GARDEN AND ARBORETUM.
00484C	01/25/17	UNIVERSITY OF NEBRASKA, AT KEARNEY.
00396C	01/25/17	TETRA TECH, INC.
94926A	01/31/17	DUNMIRE CONSULTING.
08789C	01/31/17	DICKINSON, MATTHEW R.
31151B	01/31/17	CONFEDERATED SALISH AND KOOTENAI TRIBES.
077533	02/06/17	MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS.
04585C	02/10/17	FORT BELKNAP FISH & WILDLIFE DEPARTMENT.
047290	02/10/17	COLORADO PARKS AND WILDLIFE.
27491B	03/08/17	PG ENVIRONMENTAL, LLC.
067729	03/13/17	KANSAS STATE UNIVERSITY.
85664B	03/20/17	WINGATE BIOLOGICAL SOLUTIONS, LLC.
86586B	03/20/17	GREULICH, MELISSA MARIE.
036703	03/20/17	EL PASO COUNTY ENVIRONMENTAL SERVICES DEPARTMENT.
069300	03/21/17	NEBRASKA GAME AND PARKS COMMISSION.
056003	03/21/17	DETROIT ZOOLOGICAL SOCIETY.
09897C	03/28/17	DUFFY, DEIDRE JANE.
06556C	03/31/17	BOWEN COLLINS & ASSOCIATES.
12496C	03/31/17	SKARTVEDT, PETER H.
052582	03/31/17	TRC ENVIRONMENTAL CORPORATION.
053961	04/07/17	OMAHA'S HENRY DOORLY ZOO & AQUARIUM.
66793A	04/23/17	TWO R RANCH WILDLIFE CONSULTING.
067729	04/24/17	KANSAS STATE UNIVERSITY.
94926A	04/25/17	DUNMIRE CONSULTING.
124904	04/25/17	SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS.
71872A	04/25/17	WYOMING NATURAL DIVERSITY DATABASE.
085324	04/26/17	WYOMING NATURAL DIVERSITY DATABASE.
047808	05/30/17	NATIONAL PARK SERVICE.
91328B	05/30/17	NORTH DAKOTA STATE UNIVERSITY.
038221	06/05/17	CENTRAL NEBRASKA PUBLIC POWER & IRRIGATION DISTRICT.
047252	06/07/17	SWCA, INC. ENVIRONMENTAL CONSULTANTS.
09941B	06/07/17	FELSBURG HOLT & ULLEVIG, INC.
039100	06/08/17	NEBRASKA PUBLIC POWER DISTRICT.
26584C	06/08/17	TWO DOT CONSULTING.
66793A	06/08/17	TWO R RANCH WILDLIFE CONSULTING.
39716C	06/21/17	BEASON, JASON P.
30363C	06/21/17	GRAND TETON NATIONAL PARK.
27147C	06/27/17	ST PIERRE, JASON E.
33389C	06/29/17	LEWIS, LEAH R.
061680	06/30/17	CITY OF BOULDER OPEN SPACE & MOUNTAIN PARKS.

Region 7 (Alaska Region)

The following permits were applied for and issued in Region 7. For more information about any permits, contact the Recovery Permit Coordinator by email at *PermitsR7ES@fws.gov* or by telephone at 907–786–3323.

Permit No.	Date issued	Applicant name
778102	01/01/17	U.S. FISH AND WILDLIFE SERVICE, REGION 7.
12155	05/01/17	ABR, INC.

Region 8 (Pacific Southwest Region: California, Nevada, and the Klamath Basin Portion of Oregon)

The following permits were applied for and issued in Region 8. For more information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR8ES@fws.gov* or by telephone at 760–431–9440.

Permit No.	Date issued	Applicant name
67397A	01/05/17	RICKS, TIMOTHY W.
89994B	01/05/17	SNIDER, DARIA M.
89991B	01/05/17	VONDEROHE, SARAH M.
64146A	01/05/17	VALCARCEL, PATRICIA MARIE.
082546	01/05/17	ELKHORN SLOUGH NATIONAL ESTUARINE RESEARCH RESERVE.
64580A	01/05/17	RICE, NICHOLAS A.
098997	01/05/17	WARRICK, GREGORY D.
067990	01/05/17	DUGAN, BARBIE J.
48149A	01/19/17	LIM, TAMMY C.
085050	01/20/17	NAGY, KENNETH A.
80705A	01/23/17	SIERRA PACIFIC INDUSTRIES.
87004B	01/24/17	BAXTER, TARA RAYE.
053741	01/24/17	SAN DIEGO NATIONAL WILDLIFE REFUGE COMPLEX.
36118B	01/24/17	AMOAKU, CALLIE JOY FORD.
181738	01/25/17	U.S. ENVIRONMENTAL PROTECTION AGENCY.
27501B	01/26/17	KEGEL, TRAVIS S.
170381	01/26/17	STAGNARO, WILLIAM FRANCIS.
94998A	01/26/17	LIU, LEONARD Y.
027296	01/26/17	FAWCETT, MICHAEL H.
86378B	01/26/17	THOMAS GAST & ASSOCIATES ENVIRONMENTAL CONSULTANTS.
018909	02/02/17	RIOS, KELLY M.
58862A	02/02/17	MASON, GREG G.
148552	02/02/17	BURGER, HOLLY M.
17838A	02/02/17	UNIVERSITY OF GEORGIA.
001618	02/03/17	FREMONT–WINEMA NATIONAL FOREST, U.S. FOREST SERVICE.
53771B	02/07/17	BERGMAN, ERIN JO.
157216	02/09/17	U.S.G.S.—WESTERN ECOLOGICAL RESEARCH CENTER.
12511A	02/09/17	ALLAN, KATHRYN MAUREEN.
092476	02/13/17	QUINNELL, SCOTT F.
221287	02/13/17	SAUCEDO, DIANA G.
227263	02/14/17	STRAUSS, EMILIE A.
786728	02/14/17	AVOCET RESEARCH ASSOCIATES.
778668	02/14/17	MORI, BRYAN M.
126141	02/14/17	STOCKWELL, CRAIG A.
04969C	02/15/17	DESILVA, TARA S.
56733A	02/15/17	KLINGONSMITH, RHIANNON.
72275B	02/16/17	BISHOP, MEGHAN R.
787644	02/17/17	VANHERWEG, WILLIAM J.
08293C	02/21/17	MARELLA, TRAVIS STEVEN.
01769B	02/22/17	REEBS, JESSE LEE.
13115C	02/22/17	HENDERSON, LISA.
058630	02/22/17	MENDOCINO REDWOOD COMPANY, LLC.
213308	02/28/17	DIDONATO, JOSEPH E.
71995A	03/01/17	SHIELDS, TIMOTHY A.
094642	03/03/17	SHAFFER, HOWARD BRADLEY.
036499	03/03/17	GOLDEN GATE NATIONAL RECREATION AREA.
06145B	03/16/17	COOPER HILL, ALICIA ORNELAS.
96471A	03/16/17	HOLMES, MASON D.N.
98905A	03/20/17	HORD, PATRICK L.
14615C	03/20/17	ALLEN, CHRISTOPHER ETHAN.
045994	03/21/17	U.S. GEOLOGICAL SURVEY—WESTERN ECOLOGICAL RESEARCH CENTER.
76006B	03/21/17	ZOOLOGICAL SOCIETY OF SAN DIEGO.
27242C	03/21/17	ANZA–BORREGO DESERT STATE PARK.
99374A	03/22/17	FRANKLIN, ALAN B.
59775A	03/23/17	SISK, NORMAN R.
162652	03/23/17	SHEA, MARY A.

Permit No.	Date issued	Applicant name
067992	03/30/17	DUGAN, DANIEL S.
22879C	04/06/17	UNIVERSITY OF CALIFORNIA BOYD DEEP CANYON DESERT RESEARCH CENTER.
054120	04/10/17	HUDDLESTON, RUSSELL T.
842267	04/10/17	FOREMAN, STEVE.
094308	04/11/17	LAWREY, SHAY E.
071215	04/11/17	DOUBLEDEE, REBECCA A.
14577C	04/11/17	ALEXA, LINDAUER L.
040541	04/13/17	EAST BAY MUNICIPAL UTILITY DISTRICT.
99057B	04/13/17	HOWARD, STEVE R.
14736C	04/13/17	STEELY, DARRELL RYAN.
174305	04/17/17	VANDENBERG AIR FORCE BASE.
148554	04/18/17	HEREDIA, AMBER O.
72047A	04/18/17	PERNICANO, MARTINA.
92719B	04/18/17	DAYTON, THOMAS ROBERT.
118356	04/18/17	OLOFSON ENVIRONMENTAL, INC.
32004C	04/18/17	TUMA, MICHAEL W.
94714B	04/18/17	BOIANO, DANIEL M.
43668A	04/19/17	BRADEN, GERALD T.
88417B	04/19/17	PHOENIX BIOLOGICAL CONSULTING.
31406A	04/19/17	CALIFORNIA STATE PARKS.
92799B	04/19/17	FAIRCHILD, KARL C.
022765	04/19/17	LYME REDWOOD FOREST COMPANY.
69070B	04/20/17	BOROKINI, TEMITOPE ISRAEL.
92770B	04/24/17	EAST BAY ZOOLOGICAL SOCIETY.
92167B	04/25/17	SAN FRANCISCO ZOOLOGICAL SOCIETY.
94642B	04/25/17	YEE, SUK–ANN.
36109B	04/26/17	GRIMALDO, LENNY F.
72013A	04/26/17	DURAND, JOHN R.
85771B	04/26/17	MULLEN, KAREN MARIE.
94719B	04/26/17	LIS, RICHARD A.
94702B	04/26/17	HUBBARD, KRISTIN E.
53825B	04/27/17	ZOOLOGICAL SOCIETY OF SAN DIEGO.
105545	04/27/17	KNIGHT, WENDY M.F.
170528	04/27/17	SEAY, STEPHANIE M.
17017C	05/01/17	SIANTA, SHELLEY ANN.
40087B	05/02/17	USDA FOREST SERVICE.
13115C	05/03/17	HENDERSON, LISA A.
029414	05/04/17	MOORHATCH, NATHAN THOMAS.
836491	05/04/17	WILCOX, MICHAEL D.
56889A	05/04/17	ODELL, MELISSA C.
198910	05/09/17	UNITED STATES GEOLOGICAL SURVEY.
20284C	05/12/17	LESTER, GARY S.
035336	05/12/17	VOLLMAR NATURAL LANDS CONSULTING.
027736	05/22/17	LACOSTE, DAVID ERIK.
026659	05/22/17	VENTANA WILDLIFE SOCIETY.
832946	05/22/17	PIKE, JAMES E.
42833A	05/23/17	MAUNSELL, IAN E.D.
157291	05/23/17	NATIONAL PARK SERVICE, PINNACLES NATIONAL PARK.
54710A	05/24/17	KELLY, MELISSA J.
807078	05/25/17	POINT REYES BIRD OBSERVATORY.
177896	05/30/17	MONTEREY BAY AQUARIUM.
030659	05/30/17	US GEOLOGICAL SURVEY.
063608	06/07/17	LOHSTROH, BRIAN S.
88597B	06/21/17	CRAWFORD, SCOTT ALAN.
097845	06/21/17	MANTECH SRS TECHNOLOGIES INC.
96514A	06/21/17	AGUAYO, JONATHAN.
17211C	06/21/17	ZOOLOGICAL SOCIETY OF SAN DIEGO.
72044A	06/21/17	DEMETROPOULOS, CARL L.
99413B	06/21/17	KREJCA, SARAH A.
13632B	06/22/17	GREGG, ELENA C.
14532C	06/22/17	DONAGHE, HANNAH A.
785148	06/26/17	AMEC FOSTER WHEELER.
54728A	06/26/17	SAN FRANCISCO RECREATION AND PARK DEPT.
027742	06/26/17	UNIVERSITY OF CALIFORNIA—DAVIS.
06873C	06/27/17	ENVIRONMENTAL SCIENCE ASSOCIATES.
092162	06/27/17	BORCHER, ANDREW F.
58888A	06/27/17	RITENOUR, DALE E.
94654B	06/28/17	MESA BIOLOGICAL, LLC.
166393	06/28/17	TRENHAM, PETER CORNELL.
106908	06/28/17	WARBURTON, MANNA L.

Availability of Documents

The **Federal Register** documents publishing the receipt of applications for these permits may be viewed here: *https://www.fws.gov/policy/frsystem/default.cfm.* Documents and other information submitted with these applications are available for review subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552), by any party who submits a written request for a copy of such documents. For detailed information regarding a particular permit, please contact the Region that issued the permit.

Authority

We provide this notice under the authority of section 10 of the ESA (16 U.S.C. 1531 *et seq.*).

Dated: November 3, 2017.

Don Morgan,

Chief, Branch of Recovery and State Grants.

[FR Doc. 2017–26531 Filed 12–7–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2017–N158; FF07CAFB00–178–FXFR13350700001; OMB Control Number 1018–0146]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Depredation Orders

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service, are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before January 8, 2018.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0146 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on July 3, 2017 (82 FR 30884). We received one comment in which the commenter objected to the collection of this information, but did not specifically address the information collection requirements. We did not make any changes to our requirements as a result of that comment.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*) implements four treaties concerning migratory birds signed by the United States with Canada, Mexico, Japan, and Russia. These treaties require that we preserve most U.S. species of birds, and prohibit activities involving migratory birds, except as authorized by regulation. Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter—or offer for sale, purchase, or barter—migratory birds or their parts, nests, or eggs, except as authorized by regulation. This information collection is associated with our regulations that implement the MBTA. We collect information concerning depredation actions taken to determine how many birds of each species are taken each year and whether the control actions are likely to affect the populations of those species.

In 2003, the Service issued regulations at 50 CFR 21.43 establishing a depredation order that authorize the take of blackbirds, cowbirds, crows, grackles, and magpies under certain circumstances. In this regulation is a depredation order that authorizes take of blackbirds, cowbirds, grackles, crows, and magpies ''when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance.''

In 1974, the Service issued a regulation at 50 CFR 21.46 establishing a depredation order that authorizes the take of scrub jays and Steller's jays in Washington and Oregon under certain circumstances. This regulation imposes reporting and recordkeeping requirements. 50 CFR 21.46 authorizes take of scrub jays and Steller's jays ''when found committing or about to commit serious depredations to nut crops on the premises owned or occupied by such persons.''

Reporting Requirements (50 CFR 21.43 and 21.46)—All persons or entities acting under depredation orders must provide an annual report (FWS Form 3–202–21–2143, ''Annual Report—Depredation Order for Blackbirds, Cowbirds, Grackles, Magpies, and Crows'' or FWS Form 3–2500, ''Depredation Order for Depredating Jays in Washington and Oregon,'' containing the following information:

- Species taken,
- Number of birds taken,
- Months and years in which the birds were taken,

• State(s) and county(ies) in which the birds were taken (reporting required only in the States of Washington and Oregon),

• General purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources), and

• Disposition of non-target species (Released, sent to rehabilitation facilities, etc.).

Recordkeeping Requirements (50 CFR 13.48)—Persons and entities operating under these orders must keep accurate records to complete Forms 3–202–21–2143 and 3–2500. The records must be legibly written or reproducible in English of any taking and maintained for five years after they have ceased the activity authorized by this Order. Persons or entities who reside or are located in the United States and persons or entities conducting commercial activities in the United States who reside or are located outside the United States must maintain records at a location in the United States where the records are available for inspection.

Endangered, Threatened, and Candidate Species Take Report (50 CFR 21.43 and 50 CFR 21.46)—If attempts to trap any species under this order injure a bird of a non-target species that is federally listed as endangered or threatened, or that is a candidate for listing, the bird must delivered to a rehabilitator and must be reported by phone or email to the nearest U.S. Fish and Wildlife Service Field Office or Special Agent. Capture and disposition of all non-target migratory birds must also be reported on the annual report.

Title of Collection: Depredation Orders Under 50 CFR 21.43 and 21.46.

OMB Control Number: 1018–0146.

Form Number: FWS Forms 3–202–21–2143 and 3–2500.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: State and Federal wildlife damage management personnel, farmers, and individuals.

Total Estimated Number of Annual Respondents: 56.

Total Estimated Number of Annual Responses: 56.

Estimated Completion Time per Response: 4 hours for annual reports and 1 hour for take reports.

Total Estimated Number of Annual Burden Hours: 209.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for take reports and annually for annual reports.

Total Estimated Annual Nonhour Burden Cost: None.

Respondent	Activity	Annual number of respondents	Number of submissions each	Total annual responses	Avg. time per response (hours)	Total annual burden hours *
Depredation Order Annual Report (FWS Form 3–202–21–2143) 50 CFR 21.43						
Individuals	Reporting	5	1	5	2	10
	Recordkeeping				2	10
Private Sector	Reporting	5	1	5	2	10
	Recordkeeping				2	10
Government	Reporting	20	1	20	2	40
	Recordkeeping				2	40
Subtotals:		30		30		120
Depredation Order for Depredating Jays (FWS Form 3–2500) 50 CFR 21.46						
Individuals	Reporting	10	1	10	2	20
	Recordkeeping				2	20
Private Sector	Reporting	10	1	10	2	20
	Recordkeeping				2	20
Government	Reporting	1	1	1	2	2
	Recordkeeping				2	2
Subtotals:		21		21		84
Endangered, Threatened, and Candidate Species Take Report 50 CFR 21.43						
Individuals	Reporting	1	1	1	1	1
Private Sector	Reporting	1	1	1	1	1
Government	Reporting	3	1	3	1	3
Subtotals:		5		5		5
Totals:		56		56		209

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: December 4, 2017.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2017–26446 Filed 12–7–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–24702; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before November 18, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by December 26, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before November 18, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State Historic Preservation Officers:

CONNECTICUT

Hartford County

Montgomery, J.R., Company Industrial Complex, 25 Canal Bank Rd., Windsor Locks, SG100001915

HAWAII

Hawaii County

First Bank of Hilo, Ltd., 45–3490 Mamane St., Unit G, Honoka'a, MP100001916

International Longshore and Warehouse Union (ILWU) Jack Wayne Hall Building, 45–3720 Honoka'a-Waipi'o Rd., Honoka'a, MP100001917

Kotake, Kamekichi and Mika, Store Property, 45–3620 Mamane St., Honoka'a, MP100001918

Honolulu County

Waimalu Shopping Center, 98–109 Hekala St., Aiea, SG100001919

IDAHO

Latah County

Kendrick Downtown Historic District, Generally bounded by 3rd, & S Kirby Sts., original NPRR alignment & grade rising N of E.Main St., Kendrick, SG100001920

ILLINOIS

Coles County

Lumpkin Heights and Elm Ridge Subdivision Historic District, Roughly bounded by Logan & 6th Sts., Lafayette & Charleston Aves., & Elm Ridge Subdivision, Mattoon, SG100001921

Cook County

Emmanuel Episcopal Church, 203 S. Kensington Ave., LaGrange, SG100001922

Peabody, Elizabeth, School, 1444 W. Augusta Blvd., Chicago, SG100001923

Kane County

Corron Farm, 7N761 Corron Rd., St. Charles vicinity, SG100001925

La Salle County

LaSalle Downtown Commercial District, 400–800 & N side of 900 & 1000 blks. of 1st, 400–700 blks. of 2nd, & 100 & 200 blks. Of Wright, Gooding, Marquette Sts., LaSalle, SG100001926

MAINE

Kennebec County

Hartford Fire Station, 1 Hartford Sq., Augusta, SG100001927

MARYLAND

Worcester County

Craig, Captain Robert S., Cottage, 706 St. Louis Ave., Ocean City, SG100001929

OHIO

Erie County

ANTHONY WAYNE Shipwreck, Address Restricted, Vermillion vicinity, SG100001932

Hamilton County

Duttenhofer Building, 299 E. 6th St., Cincinnati, SG100001933

Main Theatre, 7428 Hamilton Ave., Mt. Healthy, SG100001934

Summit County

Zimmerly House, 4332 Manchester Rd., New Franklin, SG100001936

PENNSYLVANIA

Philadelphia County

Frankford Arsenal (Boundary Decrease), Roughly bounded by Baird St., Frankfort Cr., Delaware R., Dietz & Watson plants and wall along Tacony St., Philadelphia, BC100001935

VERMONT

Caledonia County

Caledonia No. 9 Grange Hall, 88 Church St., East Hardwick, SG100001937

Additional documentation has been received for the following resources:

MAINE

Sagadahoc County

Richmond Historic District, Roughly bounded by South, High, Kimbal Sts., and the Kennebec River, Richmond, AD73000146

VERMONT

Washington County

Barre Downtown Historic District, Generally along Depot Sq., E side of RR ROW, N Main, Washington, & S Main Sts., Barre, AD79000227

Nomination(s) submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

ILLINOIS

Cook County

Rand McNally Building, 536 S. Clark St., Chicago, SG100001924

MICHIGAN

Kalamazoo County

United States Post Office, 410 W. Michigan Ave., Kalamazoo, MP100001930

MONTANA

Granite County

Moose Lake Camp Historic District, Moose Lake Residential Site, Lots 4 & 5, Block B, Philipsburg vicinity, SG100001931

WASHINGTON

Skamania County

Government Mineral Springs Guard Station, End of FS Rd. 3065 off of Wind R. Hwy., Mt. Adams Ranger Dist., Gifford Pinchot NF vicinity, SG100001939

Authority: 60.13 of 36 CFR part 60.

Dated: November 27, 2017.

Julie H. Ernstein,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2017–26496 Filed 12–7–17; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–591 and 731–TA–1399 (Preliminary)]

Common Alloy Aluminum Sheet From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation nos. 701–TA–591 and 731–TA–1399 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that 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 common alloy aluminum sheet from China, provided for in subheadings 7606.11.30, 7606.11.60, 7606.12.30, 7606.12.60, 7606.91.30, 7606.91.60, 7606.92.30, and 7606.92.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. The Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by January 16, 2018. The Commission's views must be transmitted to Commerce within five business days thereafter, or by January 23, 2018.

DATES: December 1, 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:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a notification of investigations self-initiated by the U.S. Department of Commerce deemed by the Commission as having been filed on December 1, 2017.

For further information concerning the conduct of these investigations 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 B (19 CFR part 207).

Participation in the investigations and public service list.—Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

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 these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 12:30 p.m. on Thursday, December 21, 2017, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before December 19, 2017. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 27, 2017, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the 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.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations 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 these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating

to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: December 1, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–26456 Filed 12–7–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–76]

Large Residential Washers

AGENCY: United States International Trade Commission.

ACTION: Publication of summary of the Commission's report on the investigation.

SUMMARY: The Trade Act of 1974 requires that the United States International Trade Commission (''Commission'') publish in the **Federal Register** a summary of each report that it submits to the President under the Trade Act of 1974. Set forth below is a summary of the report that the Commission submitted to the President on December 4, 2017, on investigation No. TA–201–76, *Large Residential Washers.* The Commission conducted the investigation under the Trade Act of 1974 following receipt of a petition, as amended and properly filed on June 5, 2017. The full text of the report (with the exception of confidential business information) will be posted on the Commission's Web site at *https://www.usitc.gov.*

DATES: December 4, 2017: Transmittal of the Commission's report to the President.

ADDRESSES: United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Nathanael Comly (202–205–3174), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. The media should contact Martha Lawless, Office of External Relations (202–205–3497 or *Martha.Lawless@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Web site (*https://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2002.

SUPPLEMENTARY INFORMATION:

Procedural summary: Effective June 5, 2017, the Commission instituted this investigation under section 202(b) of the Trade Act of 1974 to determine whether large residential washers (''LRWs'') are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The Commission instituted the investigation in response to a petition, as amended and properly filed on June 5, 2017, by Whirlpool Corporation (''Whirlpool''), a producer of LRWs in the United States.

Notice of the institution of the Commission's investigation and of the scheduling of public hearings to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** (82 FR 27075 (June 13, 2017)). The public hearing in connection with the injury phase of the investigation was held on September 7, 2017, in Washington, DC, and the public hearing in connection with the remedy phase of the investigation was held on October 19, 2017, in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission voted with respect to injury issues on October 5, 2017, and with respect to remedy issues on November 21, 2017.

The Commission submitted its report to the President on December 4, 2017. The report included the Commission's injury determination and recommended actions, an explanation of the basis for the injury determination and recommended actions, and a summary of the information obtained in the investigation.

Determination: On the basis of information developed in the subject investigation, the Commission determined pursuant to section 202(b) of the Trade Act of 1974 that large residential washers are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article.

Having made an affirmative injury determination pursuant to section 202(b) of the Trade Act of 1974, the Commission was required to make certain additional findings under the implementing statutes of certain free trade agreements (''FTAs'') or under statutory provisions related to certain preferential trade programs. Under section 311(a) of the NAFTA Implementation Act (19 U.S.C. 3371(a)), the Commission found that imports of LRWs from neither Canada nor Mexico account for a substantial share of total imports or contribute importantly to the serious injury caused by imports. The Commission also found that imports of LRWs from Australia, CAFTA DR countries, Colombia, Jordan, Korea, Panama, Peru, and Singapore, individually, are not a substantial cause of serious injury or threat thereof, under the relevant FTA implementing legislation. *See* 19 U.S.C. 2112 note (Jordan); 19 U.S.C. 3805 note (Australia, Colombia, Korea, Panama, Peru, Singapore); 19 U.S.C. 4101 (CAFTA–DR). The Commission also found that the serious injury substantially caused by imports to the domestic industry producing a like or directly competitive article does not result from the reduction or elimination of any duty provided for under the U.S.-Israel Free Trade Agreement or from duty free treatment provided for under the Caribbean Basin Economic Recovery Act provisions of the Caribbean Basin Initiative Trade Program or the GSP program. 19 U.S.C. 2112 note (Israel); 19 U.S.C. 2703(e) (CBERA); 19 U.S.C. 2253(e)(6) (GSP).

Remedy recommendations: In order to address the serious injury to the domestic industry producing large residential washers and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition, the Commissioners recommend the following actions.

The Commissioners recommend that the President impose a tariff-rate quota (TRQ) on imports of large residential washers for a duration of three years. For U.S. imports of large residential washers that exceed 1.2 million units, the Commissioners recommend a tariff rate of 50 percent *ad valorem,* in addition to the current rate of duty. The Commissioners recommend that the in-quota volume remain constant

throughout and that the above-quota tariff rate decrease by five percentage points during each year of the remedy period. Chairman Schmidtlein and Commissioner Williamson additionally recommend an in-quota tariff rate of 20 percent *ad valorem,* which would decrease to 18 percent in the second year of the remedy period and 15 percent in the third year of the period, in addition to the current rate of duty. Vice Chairman Johanson and Commissioner Broadbent do not recommend an additional in-quota tariff rate for large residential washers.

The Commissioners also unanimously recommend that the President impose a separate TRQ on imports of covered parts of large residential washers for a duration of three years. For U.S. imports of covered parts that exceed 50,000 units, they recommend a tariff rate of 50 percent *ad valorem,* in addition to the current rate of duty. They recommend that the in-quota volume increase by 20,000 units in each year of the remedy period, and that the above-quota tariff rate decrease by five percentage points each year. They do not recommend an in-quota tariff rate for covered parts.

SUMMARY OF COMMISSIONERS' RECOMMENDED ACTIONS LARGE RESIDENTIAL WASHERS

	Year 1	Year 2	Year 3
Large Residential Washers: TRQ			
In-Quota Volume Level	1.2 million units	1.2 million units	1.2 million units.
Above-Quota Tariff Rate	50%	45%	40%.
In-Quota Tariff Rate (*Schmidtlein & Williamson*)	20%	18%	15%.
In-Quota Tariff Rate (*Johanson & Broadbent*)	0%	0%	0%.
Covered Parts: TRQ			
In-Quota Volume Level	50,000 units	70,000 units	90,000 units.
Above-Quota Tariff Rate	50%	45%	40%.
In-Quota Tariff Rate	0%	0%	0%.

Having made negative findings with respect to imports from Canada and Mexico under section 311(a) of the North American Free Trade Agreement Implementation Act, the Commissioners recommend that imports from Canada and Mexico be excluded from the above TRQs and increased rates of duty. The Commissioners also recommend that the above TRQs and increased rates of duty not apply to imports from Australia, Colombia, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Korea, Nicaragua, Panama, Peru, and Singapore, or to imports from the beneficiary countries under the Caribbean Basin Economic Recovery Act.

Availability of the public version of the report. The public version of the Commission's report containing the Commission's injury determination, its remedy recommendations, an explanation of the basis for its injury determination and remedy recommendations, and a summary of the information obtained in the investigation is contained in *Large Residential Washers,* Inv. No. TA–201–076, USITC Publication 4745, December 2017.

By order of the Commission.

Issued: December 4, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–26451 Filed 12–7–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Janssen Pharmaceutical, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before February 6, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on September 19, 2017, Janssen Pharmaceutical, Inc., Buildings 1–5 & 7–14, 1440 Olympic Drive, Athens, Georgia 30601 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Oripavine	9330	II
Thebaine	9333	II
Oxymorphone	9652	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to manufacture the above-listed controlled substances in bulk for distribution to its customers.

Dated: November 17, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–26507 Filed 12–7–17; 8:45 am]

BILLING CODE 4410–09–P

OFFICE OF THE FEDERAL REGISTER

Publication Procedures for Federal Register Documents During a Funding Hiatus

AGENCY: Office of the Federal Register.

ACTION: Notice of special procedures.

SUMMARY: In the event of an appropriations lapse, the Office of the Federal Register (OFR) would be required to publish documents directly related to the performance of governmental functions necessary to address imminent threats to the safety of human life or protection of property. Since it would be impracticable for the OFR to make case-by-case determinations as to whether certain documents are directly related to activities that qualify for an exemption under the Antideficiency Act, the OFR will place responsibility on agencies submitting documents to certify that their documents relate to emergency activities authorized under the Act.

FOR FURTHER INFORMATION CONTACT: Amy Bunk, Director of Legal Affairs and Policy, or Miriam Vincent, Staff Attorney, Office of the Federal Register, National Archives and Records Administration, (202) 741–6030 or *Fedreg.legal@nara.gov*.

SUPPLEMENTARY INFORMATION: Due to the possibility of a lapse in appropriations and in accordance with the provisions of the Antideficiency Act, as amended by Public Law 101–508, 104 Stat. 1388 (31 U.S.C. 1341), the Office of the Federal Register (OFR) announces special procedures for agencies submitting documents for publication in the **Federal Register**.

In the event of an appropriations lapse, the OFR would be required to publish documents directly related to the performance of governmental functions necessary to address imminent threats to the safety of human life or protection of property. Since it would be impracticable for the OFR to make case-by-case determinations as to whether certain documents are directly related to activities that qualify for an exemption under the Antideficiency Act, the OFR will place responsibility on agencies submitting documents to certify that their documents relate to emergency activities authorized under the Act.

During a funding hiatus affecting one or more Federal agencies, the OFR will remain open to accept and process documents authorized to be published in the daily **Federal Register** in the absence of continuing appropriations. An agency wishing to submit a document to the OFR during a funding hiatus must attach a transmittal letter to the document which states that publication in the **Federal Register** is necessary to safeguard human life, protect property, or provide other emergency services consistent with the performance of functions and services exempted under the Antideficiency Act.

Under the August 16, 1995 opinion of the Office of Legal Counsel of the Department of Justice, exempt functions and services would include activities such as those related to the constitutional duties of the President, food and drug inspection, air traffic control, responses to natural or manmade disasters, law enforcement and supervision of financial markets. Documents related to normal or routine activities of Federal agencies, even if funded under prior year appropriations, will not be published.

At the onset of a funding hiatus, the OFR may suspend the regular three-day publication schedule to permit a limited number of exempt personnel to process emergency documents. Agency officials will be informed as to the schedule for filing and publishing individual documents.

Authority: The authority for this action is 44 U.S.C. 1502 and 1 CFR 2.4 and 5.1.

Oliver A. Potts,

Director of the Federal Register.

[FR Doc. 2017–26280 Filed 12–7–17; 8:45 am]

BILLING CODE 1301–00–D

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 3 and 4; Clarification of Protection and Safety Monitoring System (PMS) Interdivisional Cables in Auxiliary Building Fire Areas

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 94 and 93 to Combined Licenses (COL), NPF–91 and NPF–92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, Authority of Georgia, and the City of Dalton, Georgia (the licensee); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on November 1, 2017.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was submitted by letter dated April 6, 2017, as supplemented by letter dated August 18, 2017, and available in ADAMS under Accession Nos. ML17096A765 and ML17230A359, respectively.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Chandu Patel, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone:

301–415–3025; email: *Chandu.Patel@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from paragraph B of section III, ''Scope and Contents,'' of appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment Nos. 94 and 93 to COLs, NPF–91 and NPF–92, respectively, to the licensee. The exemption is required by paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' appendix D, to 10 CFR part 52 to allow the licensee to depart from Tier 1 information. With the requested amendment, the licensee sought proposed changes to the Updated Final Safety Analysis Report in the form of departures from the incorporated plant-specific Design Control Document (PS–DCD) Tier 2 information and involves changes to COL Appendix C. The proposed changes impact Tier 1 of the PS–DCD, with corresponding changes to appendix C of the COL, to add Note 2 to Tier 1 Table 3.3–3, ''Class 1E Divisions in Nuclear Island Fire Areas,'' which identifies Class 1E divisional cables present in various Auxiliary Building Nuclear Island fire areas. The addition of Note 2 ensures the identification of Class 1E protection and safety monitoring system interdivisional fiber-optic cables that are terminated in the four (4) fire areas identified in Table 3.3–3.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in §§ 50.12, 52.7, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML17244A247.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for VEGP Units 3 and 4 (COLs NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML17244A244 and ML17244A246, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML17244A237 and ML17244A239, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated April 6, 2017, as supplemented by letter dated August 18, 2017, the licensee requested from the Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, as part of license amendment request 17–011, ''Clarification of Protection and Safety Monitoring System (PMS) Interdivisional Cables in Auxiliary Building Fire Areas.''

For the reasons set forth in Section 3.1 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML17244A247, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to appendix C of the Facility Combined License as described in the licensee's request dated April 6, 2017, as supplemented by letter dated August 18, 2017. This exemption is related to, and necessary for the granting of License Amendment No. 94 (Unit 3) and 93 (Unit 4), which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML17244A247), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated April 6, 2017 (ADAMS Accession No. ML17096A765), as supplemented by letter dated August 18, 2017 (ADAMS Accession No. ML17230A359), the licensee requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF–91 and NPF–92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on May 9, 2017 (82 FR 21561). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that the licensee requested on April 6, 2017, as supplemented by letter dated August 18, 2017.

The exemption and amendment were issued on November 1, 2017, as part of a combined package to the licensee (ADAMS Accession No. ML17244A236).

Dated at Rockville, Maryland, this 5th day of December 2017.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity, Chief,

Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2017–26512 Filed 12–7–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0265]

Information Collection: U.S. Nuclear Regulatory Commission Acquisition Regulation (NRCAR)

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Nuclear Regulatory Commission Acquisition Regulation (NRCAR).''

DATES: Submit comments by January 8, 2018.

ADDRESSES: Submit comments directly to the OMB reviewer at: Brandon F. DeBruhl, Desk Officer, Office of Information and Regulatory Affairs (3150–0169), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–0710, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0265 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0265.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML17318A555.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Nuclear Regulatory Commission Acquisition Regulation (NRCAR).'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on September 13, 2017, 82 FR 43051.

1. *The title of the information collection:* 48 CFR 20 U.S. Nuclear Regulatory Commission Acquisition Regulation (NRCAR).
2. *OMB approval number:* 3150–0169.
3. *Type of submission:* Extension.
4. *The form number if applicable:* N/A.
5. *How often the collection is required or requested:* On occasion, one time.
6. *Who will be required or asked to respond:* Contractors and potential contractors.
7. *The estimated number of annual responses:* 5,613.
8. *The estimated number of annual respondents:* 4,985.
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 37,337 (34,393 reporting + 2,944 recordkeeping).
10. *Abstract:* The mandatory requirements of the NRCAR implement and supplement the government-wide Federal Acquisition Regulation (FAR), and ensure that the regulations governing the procurement of goods and services with the NRC satisfy the particular needs of the agency. Because of differing statutory authorities among Federal agencies, the FAR permits agencies to issue a regulation to implement FAR policies and procedures internally to satisfy the specific need of the agency.

Dated at Rockville, Maryland, this 5th day of December 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–26511 Filed 12–7–17; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32933; 812–14800]

CBOE Vest Financial, LLC, et al.; Notice of Application

December 4, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section

12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds.

APPLICANTS: Cboe Vest Financial, LLC (the ''Initial Adviser''), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940, ETF Series Solutions (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Quasar Distributors, LLC (the ''Distributor''), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'').

FILING DATE: The application was filed on July 12, 2017 and amended on November 2, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 29, 2017 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: the Initial Adviser, 1765 Greensboro Station Place, Suite 900 McLean, Virginia 06107; the Trust, 615 East Michigan Street, 4th Floor, Milwaukee, Wisconsin 53202; the Distributor, LLC, 777 East Wisconsin Avenue, 6th Floor, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Benjamin Kalish, Attorney-Advisor, at (202) 551–7361, or Parisa Haghshenas, Branch Chief, at (202) 551–6723 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant'', which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely to the performance of an underlying index. In the case of self-indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of an Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the underlying index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such

[1] Applicants request that the order apply to the new series of the Trust and any additional series of the Trust, and any other open-end management investment company or series thereof (each, included in the term ''Fund''), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application.

[2] Each Self-Indexing Fund will post on its Web site the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82213; File No. SR–NYSE–2017–32]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend Section 202.06 of the NYSE Listed Company Manual To Prohibit Listed Companies From Issuing Material News After the Official Closing Time for the Exchange's Trading Session Until the Earlier of Publication of Such Company's Official Closing Price on the Exchange or Five Minutes After the Official Closing Time

December 4, 2017.

I. Introduction

On August 17, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the NYSE Listed Company Manual (the ''Manual'') to prohibit listed companies from issuing material news after the official closing time for the Exchange's trading session until the earlier of publication of such company's official closing price on the Exchange or five minutes after the official closing time. The proposed rule change was published for comment in the **Federal Register** on September 5, 2017.[3] The Commission received one comment letter on the proposed rule change.[4] On October 20, 2017, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to December 4, 2017.[5] On November 28, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superceded the original filing in its entirety.[6] This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

Currently, the Exchange's rules for the public release of material information, set forth in Section 202.06 (Procedure for Public Release of Information; Trading Halts) of the Manual, contains an advisory that requests that listed companies that intend to issue material news after the close of trading on the Exchange delay such issuance until the earlier of publication of such company's official closing price or fifteen minutes after the close of trading in order to facilitate an orderly closing auction process. Continuous trading on the Exchange ends at the Exchange's official closing time of 4:00 p.m. Eastern Time,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81494 (August 29, 2017), 82 FR 42008 (''Notice'').

[4] *See* letter to Eduardo A. Aleman, Assistant Secretary, Commission from John Dibacco Virtu Financial LLC (''Virtu''), dated September 20, 2017 (''Virtu Letter''). The Virtu Letter expressed support for the proposed rule change.

[5] *See* Securities Exchange Act Release No. 81914, 82 FR 49690 (October 26, 2017).

[6] In Amendment No. 1, the Exchange amended the proposed rule language to clarify that the proposed restriction on issuing material news will not apply where a listed company was publicly disclosing material information following a non-intentional disclosure in order to comply with Regulation FD. Amendment No. 1 was also submitted as a comment to the rule proposal. *See* letter to Brent J. Fields, Secretary, Commission from Martha Redding, Associate General Counsel and Assistant Secretary, New York Stock Exchange, dated November 29, 2017 (''Amendment No. 1'').

except for certain days on which trading closes early at 1:00 p.m. Eastern Time. After continuous trading ends at the official closing time (generally 4:00 p.m. unless there is a 1:00 p.m. close), the Designated Market Maker (''DMM'') in a security facilitates the close of trading in a closing auction.[7] The closing auction is a manual process unless the DMM chooses to automate the closing auction.[8] At the official closing time, the Exchange stops accepting any new orders, including those orders designated for the closing auction and requests to cancel orders.

In its proposal, the Exchange stated that because there is trading after 4:00 p.m. Eastern Time on other exchange and non-exchange venues (''away markets''), if a listed company issues material news immediately after 4:00 p.m., but before the closing auction on the Exchange is completed, there can be a significant price difference in nearly contemporaneous trades on away markets and the official closing price on the Exchange.[9] The Exchange previously had added the advisory text in Section 202.06 of the Manual, noted above, in order to mitigate investor confusion as a result of possible discrepancy between the official closing price on the Exchange and the prices of executions in away markets.[10] The Exchange stated in its proposal, however, that it has continued to experience situations where material news issued by companies shortly after 4:00 p.m. has caused significant investor confusion.[11] Specifically, when a listed company releases material news shortly after 4.00 p.m., but before the DMM has been able to complete the Exchange closing auction, the material news release can cause the company's stock to trade on away markets at materially different prices than the price of the NYSE's closing auction.[12]

The Exchange has therefore proposed to amend Section 202.06 of the Manual to prohibit listed companies from issuing material news after the official closing time for the Exchange's trading session until the earlier of publication of such company's official closing price on the Exchange or five minutes after the Exchange's official closing time, except when publicly disclosing material information following a non-intentional disclosure in order to comply with Regulation FD under the Act. The Exchange has also proposed to retain the existing advisory text in Section 202.06 of the Manual. Finally, the Exchange proposed to modify its description of the Exchange's trading hours to specify the official closing time is typically 4:00 p.m. Eastern Time, except for certain days on which the official closing time occurs early at 1:00 p.m. Eastern Time.[13]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[15] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to 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.

The Commission believes that the proposed amendment is reasonably designed to promote just and equitable principles of trade by ensuring that participants in the closing auction on the Exchange do not have their trades executed at a price that is different from essentially contemporaneous trades being executed on away markets. As is noted above, the price on such away markets can reflect material news that was released after the Exchange's official closing time but before the DMM is able to complete the closing auction. Such an occurance can increase the risk of market disruption and reduce investor confidence in trading on the Exchange given that once the official closing time occurs on the Exchange, orders cannot be cancelled or modified (including orders designated for the closing price) to take into account the material news even though the Exchange closing price may not yet have been established by the closing auction process.

According to Section 202.05 (Timely Disclosure of Material News Developments) of the Manual, a listed company is expected to release quickly to the public any news or information which might reasonably be expected to materially affect the market for its securities.[16] While the Commission recognizes the importance of the requirement in Section 202.05 that listed companies release material news to the public as quickly as possible, the Commission also believes that the maximum five minute delay mandated by the proposal is consistent with investor protection in that it will reduce the likelihood of investor confusion that could result if material news is issued prior to the completion of the Exchange's closing auction but while trading is continuing on away markets. The Exchange has also represented that DMMs are able to complete the closing auctions for the securities assigned to a DMM in almost all cases within five minutes of the Exchange's official closing time, thereby minimizing the possible amount of time delay for a listed company to issue material news after the Exchange's official closing time, consistent with the protection of investors and the public interest.[17]

The Commission further notes that the commenter supported the goals of the proposal stating that they agreed with the Exchange that, in order to prevent investor confusion, the closing price for NYSE listed companies must be consistent with the contemporanious trading prices on other markets and a brief ''coolling off'' period was warranted to enable the DMM to complete the closing auction process.[18]

The amended proposed rule language, moreover, makes clear that, despite the

[7] *See* Section 202.06 of the Manual. A DMM has a responsibility and duty to facilitate the close of trading for each of the securities in which the DMM is registered. *See id.* at 42009. Up until 4:00 p.m., the Exchange publishes order imbalance information, which includes real-time order imbalance information and information indicating the price at which closing interest may be executed in full and the price at which Exchange Book and closing-only interest may be executed in full. *See id.* Accordingly, a DMM facilitates a closing auction based on an order imbalance and order information established before 4:00 p.m. *See id.*

[8] *See* NYSE Rule 123C, which establishes the Exchange's Closing Procedures, including that closings may be effectuated manually or electronically by the DMM (Supplementary Material .10 to Rule 123C).

[9] *See* Notice, *supra* note 3, at 42009.

[10] *See* Securities Exchange Act Release No. 75809 (September 2, 2015), 80 FR 54362 (September 9, 2015).

[11] *See* Notice, *supra* note 3, at 42009.

[12] *See Id.*

[13] *See* proposed Section 202.06 of the Manual.

[14] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] Section 202.05 of the Manual further states that a listed company should also act promptly to dispel unfounded rumors which result in unusual market activity or price variations.

[17] *See* Notice, *supra* note 3, at 42009.

[18] *See* Virtu Letter at 2. Additionally, Virtu requested that the Exchange review compliance with Section 202.06 of the Manual to determine whether appropriate actions are being taken to prevent the dissemination of material news during the trading day. The Commission believes that Virtu's request to review Section 202.06 of the Manual is beyond the scope of the proposed rule change.

limited time prohibition in the rule for releasing material information after the Exchange's official closing time, a listed company is never expected to withhold material information if doing so would violate Regulation FD under the Act. The Commisison notes that this exception in the new rule requirement ensures that listed companies will not be prohibited from disclosing material information following a non-intentional disclosure in compliance with Regulation FD, even if the closing auction on the Exchange has not yet been completed. The Commisison believes that this provision is designed to ensure, among other things, that all market participants have equal access to information that is material to trading in the securities of listed companies and therefore finds it is consistent with the protection of investors and the public interest.[19] Finally, the Commission believes that making clear the official closing time of the Exchange is consistent with investor protection and the public interest in that it reduces potential confusion in determining when the rule applies.

Accordingly, for the reasons discussed above, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Exchange Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether this filing, as modified by whether Amendment No. 1, is consistent with the Exchange 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–2017–32 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–NYSE–2017–32. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–32 and should be submitted on or before December 29, 2017.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act, to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of Amendment No. 1 in the **Federal Register**. As discussed above, Amendment No. 1 explicitly makes clear that the proposed restriction on issuing material news will not apply when a listed company is publicly disclosing material information following a non-intentional disclosure in order to comply with Regulation FD.[20] The Commission believes that this revision provides greater clarity on the application of the proposed amendments to Section 202.06 of the Manual and removes uncertainty as to the new prohibitions in the Exchange rules and a listed company's obligation to make disclosures that would be required under Regulation FD pursuant to the federal securities laws.

Accordingly, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis, pursuant to Section 19(b)(2) of the Exchange Act.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[21] that the proposed rule change (SR–NYSE–2017–32), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26459 Filed 12–7–17; 8:45 am]

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[19] The Commission notes that it expects listed companies to comply with their obligations under the federal securities laws, including Regulation FD, notwithstanding provisions in the Exchange rules that require listed companies to provide the Exchange advance notice of material news announcements, such as in Section 202.05 (B) of the Manual.

[20] *See supra* note 6.

[21] 15 U.S.C. 78f(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82211; File No. SR–ICC–2017–014]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the ICC Stress Testing Framework and the ICC Liquidity Risk Management Framework

December 4, 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 November 27, 2017, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been primarily prepared by ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(3) thereunder,[4] so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed changes is to make clarifying revisions to the ICC Stress Testing Framework and the ICC Liquidity Stress Testing Framework.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(3).

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICC proposes revisions to its Stress Testing Framework and Liquidity Risk Management Framework. Specifically, ICC proposes clarifying changes to document current aspects of its stress testing and liquidity stress testing practices. The proposed changes are described in detail as follows.

ICC proposes changes to its Stress Testing Framework to provide further clarity regarding its calculation of the Foreign Exchange (''FX'') shock percentages utilized in ICC's stress testing practices. Specifically, ICC proposes adding language noting that ICC calculates a FX shock percentage for each considered risk horizon.

ICC proposes changes to its Liquidity Risk Management Framework to provide further clarify regarding the applicability of FX adverse stress scenarios to its predefined liquidity stress tests. Specifically, ICC proposes adding language noting that adverse stress scenarios are applied to the Historically Observed Extreme but Plausible scenarios and Hypothetically Constructed Extreme but Plausible scenarios. ICC also added a description of its FX shock percentage calculation to the ICC Liquidity Risk Management Framework.

Section 17(A)(b)(3)(F) of the Act [5] requires, among other things, that the rules of a clearing agency be designed to protect investors and the public interest and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, Section 17(A)(b)(3)(F),[6] because ICC believes that the proposed rule change will protect investors and the public interest, as the proposed revision provides additional clarity regarding ICC's stress testing and liquidity stress testing practices. As such, the proposed rule change is designed to protect investors and the public interest within the meaning of Section 17(A)(b)(3)(F) [7] of the Act. Further, through these revisions, ICC is complying with a directive from the CFTC by including requested clarifying details in its Stress Testing Framework and Liquidity Risk Management Framework.

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. ICC is adding clarifying details regarding its current stress testing and liquidity stress testing practices and not making any substantive changes to its overall stress testing and liquidity stress testing practices. Therefore, ICC does not believe the changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [8] of the Act and paragraph (f)(3) of Rule 19b–4 thereunder.[9] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2017–014 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2017–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2017–014 and should be submitted on or before December 29, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26449 Filed 12–7–17; 8:45 am]

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[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] Id.

[7] *Id.*

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(3).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82212; File No. SR–NYSEAMER–2017–34]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rules To Delete Obsolete Cash Equities Rules That Are Not Applicable to Trading on the Pillar Trading Platform and To Delete Other Obsolete Rules

December 4, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 22, 2017, NYSE American LLC (''Exchange'' or ''NYSE American'') 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 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 Exchange rules to delete cash equities rules that are not applicable to trading on the Pillar trading platform. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 equity rules to delete rules that are not applicable to trading on the Pillar trading platform.

To effect its transition of cash equities trading to Pillar, the Exchange adopted Pillar platform Rules 1E–13E. Because specified Exchange rules that govern trading cash equities on a Floor-based trading platform are not applicable to trading on Pillar, the Exchange designated specified rules governing cash equities trading with the following preamble: ''this rule is not applicable to trading on the Pillar trading platform.'' [4]

On July 24, 2017, the Exchange transitioned all cash equities trading to the Pillar platform. Because the cash equities rules that are not applicable to trading on the Pillar trading platform are now obsolete, the Exchange proposes to delete the following rules in their entirety: [5]

- Rule 1—Equities (''The Exchange and Related Entities'').
- Rule 3—Equities (''Security'').
- Rule 4—Equities (''Stock'').
- Rule 5—Equities (''Bond'').
- Rule 6—Equities (Floor).
- Rule 6A—Equities (Trading Floor).
- Rule 7—Equities (Exchange BBO).
- Rule 11—Equities (Effect of Definitions).
- Rule 12—Equities (''Business Day'').
- Rule 13—Equities (Orders and Modifiers).
- Rule 14—Equities (Non-Regular Way Settlement Instructions for Orders).
- Rule 15—Equities (Pre-Opening Indications and Opening Order Imbalance Information).
- Rule 15A—Equities (Order Protection Rule).
- Rule 17—Equities (Use of Exchange Facilities and Vendor Services).
- Rule 18—Equities (Compensation in Relation to Exchange System Failure).
- Rule 19—Equities (Locking or Crossing Protected Quotations in NMS Stocks).
- Rule 23—Equities (New York local time).
- Rule 24—Equities (Change in Procedure to Conform to Changes[sic] Hours of Trading).
- Rule 25—Equities (Exchange Liability for Legal Costs).
- Rule 27—Equities (Regulatory Cooperation).
- Rule 28—Equities (Fingerprint-Based Background Checks of Exchange Employees and Others).
- Rule 35—Equities (Floor Employees to be Registered).
- Rule 36—Equities (Communications Between Exchange and Members' Offices).
- Rule 37—Equities (Visitors).
- Rule 46—Equities (Floor Officials—Appointments).
- Rule 46A—Equities (Executive Floor Governors).
- Rule 47—Equities (Floor Officials—Unusual Situations).
- Rule 49—Equities (Exchange Business Continuity and Disaster Recovery Plans and Mandatory Testing).
- Rule 51—Equities (Hours for Business).
- Rule 52—Equities (Dealings on the Exchange—Hours).
- Rule 53—Equities (Dealings on Floor—Securities).
- Rule 54—Equities (Dealings on Floor—Persons).
- Rule 55—Equities (Unit of Trading—Stocks and Bonds).
- Rule 60—Equities (Dissemination of Quotations).
- Rule 61—Equities (Recognized Quotations).
- Rule 62—Equities (Variations).
- Rule 67—Equities (Tick Size Pilot Plan).
- Rule 70—Equities (Execution of Floor broker interest).
- Rule 71—Equities (Precedence of Highest Bid and Lowest Offer).
- Rule 72—Equities (Priority of Bids and Offers and Allocation of Executions).
- Rule 73—Equities (Seller's Option).
- Rule 74—Equities (Publicity of Bids and Offers).
- Rule 75—Equities (Disputes as to Bids and Offers).
- Rule 76—Equities (''Crossing'' Orders).
- Rule 77—Equities (Prohibited Dealings and Activities).
- Rule 78—Equities (Sell and Buy Orders Coupled at Same Price).
- Rule 79A—Equities (Miscellaneous Requirements on Stock Market Procedures).
- Rule 80B—Equities (Trading Halts Due to Extraordinary Market Volatility).
- Rule 80C—Equities (Limit Up—Limit Down Plan and Trading Pauses in

[4] *See* Securities Exchange Act Release Nos. 80590 (May 4, 2017), 82 FR 21843 (May 10, 2017) (Approval Order) and 79993 (February 9, 2017), 82 FR 10814 (February 15, 2017) (SR–NYSEMKT–2017–01) (Notice). *See* Securities Exchange Act Release Nos. 79982 (February 7, 2017), 82 FR 105008 [sic] (February 13, 2017) (Notice) and 80577 (May 2, 2017), 82 FR 21446 (May 8, 2017) (SR–NYSEMKT–2017–04) (Approval Order).

[5] The Exchange also proposes to delete (i) section headings if all of the rules of a section are being deleted and (ii) the list of rules included in a section heading if rules are being deleted from that section.

Individual Securities Due to Extraordinary Market Volatility).
- Rule 90—Equities (Dealings by Members on the Exchange).
- Rule 91—Equities (Taking or Supplying Securities Named in Order).
- Rule 93—Equities (Trading for Joint Account).
- Rule 94—Equities (Designated Market Makers' or Odd-Lot Dealers' Interest in Joint Accounts).
- Rule 95—Equities (Discretionary Transactions).
- Rule 96—Equities (Limitation on Members' Trading Because of Options).
- Rule 98—Equities (Operation of a DMM Unit).
- Rule 98A—Equities (Restrictions on Persons or Parties Affiliated with a DMM Unit).
- Rule 103—Equities (Registration and Capital Requirements of DMMs and DMM Units).
- Rule 103A—Equities (Member Education).
- Rule 103B—Equities (Security Allocation and Reallocation).
- Rule 104—Equities (Dealings and Responsibilities of DMMs).
- Rule 104A—Equities (DMMs—General).
- Rule 104B—Equities (DMM Commisions[sic]).
- Rule 105—Equities (DMMs' Interest in Pools).
- Rule 106A—Equities (Taking Book or Order of Another Member).
- Rule 107B—Equities (Supplemental Liquidity Providers).
- Rule 107C—Equities (Retail Liquidity Program).
- Rule 108—Equities (Limitation on Members' Bids and Offers).
- Rule 112—Equities (Orders Initiated ''Off the Floor'').
- Rule 113—Equities (DMM Unit's Public Customers).
- Rule 115A—Equities (Orders at Opening).
- Rule 116—Equities (''Stop'' Constitutes Guarantee).
- Rule 117—Equities (Orders of Members To Be in Writing).
- Rule 119—Equities (Change in Basis from ''And Interest'' to ''Flat'').
- Rule 121—Equities (Records of DMM Units).
- Rule 122—Equities (Orders with More than One Broker).
- Rule 123—Equities (Record of Orders).
- Rule 123A—Equities (Miscellaneous Requirements).
- Rule 123B—Equities (Exchange Automated Order Routing System).
- Rule 123C—Equities (The Closing Procedures).
- Rule 123D—Equities (Openings and Halts in Trading).
- Rule 123E—Equities (DMM Combination Review Policy).
- Rule 126—Equities (Odd-Lot Dealers General).
- Rule 127—Equities (Block Crosses Outside the Prevailing Exchange Quotation).
- Rule 128—Equities (Clearly Erroneous Executions for Equities).
- Rule 128A—Equities (Publication of Transactions).
- Rule 128B—Equities (Publication of Changes, Corrections, Cancellations or Omissions and Verifications of Transactions).
- Rule 130—Equities (Overnight Comparison of Exchange Transactions).
- Rule 131—Equities (Comparison—Requirements for Reporting Trades and Providing Facilities).
- Rule 131A—Equities (A Member Organization Shall Use Its Own Mnemonic When Entering Orders).
- Rule 132—Equities (Comparison and Settlement of Transactions Through a Fully-Interfaced or Qualified Clearing Agency).
- Rule 133—Equities (Comparison—Non-cleared Transactions).
- Rule 134—Equities (Differences and Omissions-Cleared Transactions (''QTs'')).
- Rule 135—Equities (Differences and Omissions—Non-cleared Transactions (''DKs'')).
- Rule 136—Equities (Comparison—Transactions Excluded from Clearance).
- Rule 235—Equities (Ex-Dividend, Ex-Rights).
- Rule 300—Equities (Trading Licenses).
- Rule 301—Equities (Qualifications for Membership).
- Rule 303—Equities (Limitation on Access to Floor).
- Rule 304A—Equities (Member Examination Requirements).
- Rule 345—Equities (Employees-Registration, Approval, Records).
- Rule 345A—Equities (Continuing Education for Registered Persons).
- Rule 388—Equities (Prohibition Against Fixed Rates of Commission).
- Rule 411—Equities (Erroneous Reports).
- Rule 440—Equities (Books and Records).
- Rule 440B—Equities (Short Sales).
- Rule 440H—Equities (Activity Assessment Fees).
- Rule 440I—Equities (Records of Compensation Arrangements—Floor Brokerage).
- Rule 460—Equities (DMMs Participating in Contests).
- Rules 500—Equities—525—Equities (rules governing UTP trading)
- Rule 600—Equities (Arbitration).
- Rules 900—Equities –907 Equities (Off-Hours Trading Facility Rules)
- Rule 1000—Equities (Capital Commitment Schedule).
- Rule 1001—Equities (Execution of Automatically Executing Orders).
- Rule 1002—Equities (Availability of Automatic Execution Feature).
- Rule 1004—Equities (Election of Buy Minus and Sell Plus).

* * * * *

The Exchange also proposes to delete Rule 424—Equities. The Exchange believes that Rule 6.10E, regarding ETP Holders Holding Options, addresses the same topic, and therefore Rule 424—Equities is no longer necessary for trading on the Pillar trading platform.[6] The Exchange also proposes to delete Rule 438—Equities, which relates to participating in decimal conversion testing, because by its terms, as specified in Supplementary Material .30 to that rule, that rule has expired because decimal pricing has been fully implemented.

The Exchange also proposes to delete Equities rules that are currently designated as ''Reserved.''[7] The Exchange believes it would reduce confusion and promote transparency to delete references to rules that do not have any substantive content. The Exchange further believes that because it is transitioning to a new rule numbering framework for cash equities trading, maintaining these rules on a reserved basis is no longer necessary.

[6] Current Rule 424—Equities is based on New York Stock Exchange LLC Rule 424 and has more detailed reporting requirements than Rule 6.10E. Current Rule 6.10E, which is based on NYSE Arca, Inc. Rule 11.24 (formerly, NYSE Arca Equities, Inc. Rule 6.10), sets forth the restrictions currently applicable on other exchanges relating to the purchase or sale of options that are not listed on the Options Clearing Corporation. *See, e.g.,* CBOE BZX Exchange, Inc. Rule 12.10(a) (Options). To align the Exchange's rules with those of other exchanges, the Exchange proposes to delete Rule 424—Equities.

[7] *See* Rules 346- Equities (Deleted); Rules 348—Equities—349—Equities; Rule 350—Equities; Rule 351—Equities; Rule 352—Equities; Rule 354—Equities; Rules 355—Equities—374 Equities; Rules 376—Equities—381—Equities; Rule 382—Equities; Rules 383—Equities—386—Equities; Rules 389—Equities—391—Equities; Rule 392—Equities; Rules 393—Equities—Rule 400—Equities; Rule 401—Equities; Rule 401A—Equities; Rule 405—Equities; Rule 405A—Equities; 410A—Equities; Rule 413—Equities; Rule 414—Equities; Rule 415—Equities; Rule 417—Equities; Rule 418—Equities; Rule 419—Equities; Rule 420—Equities; Rule 421—Equities; Rule 423—Equities; Rules 425—Equities—429—Equities; 440D—Equities—440E—Equities; 440F—Equities; 440G—Equities; Rules 441—Equities—444—Equities; Rule 445—Equities; Rule 446—Equities; Rules 447—Equities—449—Equities; Rules 461—Equities—464—Equities; Rules 498—Equities—499—Equities; Rules 526—Equities—599—Equities; Rules 601—Equities—899—Equities; and Rules 908—Equities—999—Equities. The Exchange also proposes to delete references to the term ''Reserved'' that do not correlate to a current rule number.

The Exchange also proposes a technical, non-substantive amendment to replace the term ''Non-routable Limit Order'' with the term ''Non-Routable Limit Order'' in Rules 7.31E(d)(1)(C), 7.31E(e)(1), 7.31E(j)(1), and 7.46E(f)(5)(F)(ii) and (iii). The Exchange believes that capitalizing the term ''Routable'' is more consistent with the naming methodology of other Exchange order types, such as the ''Non-Displayed Limit Order,'' as defined in Rule 7.31E(d)(1).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[8] in general, and furthers the objectives of Section 6(b)(5),[9] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that its proposed rule change to eliminate rules that are not applicable to trading on Pillar would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would eliminate rules that are now obsolete or that do not have any substantive content. Eliminating obsolete rules would reduce potential confusion and add 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.

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 proposed rule change is not intended to address any competitive issues, but rather it is designed to eliminate obsolete rules.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative for 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay. The Commission notes that the Exchange represented that it has transitioned cash equities trading to the Pillar trading technology in July 2017. Therefore, the Exchange's cash equities rules that govern floor-based trading are no longer in effect and are therefore obsolete. The Commission believes deleting Exchange rules that are no longer in effect and are obsolete would be consistent with the protection of investors and the public interest because it would reduce potential confusion and add transparency and clarity to NYSE American's rules. Further, the Commission notes that Exchange Rule 438-Equities, related to participation in decimal conversion testing, is obsolete as decimal conversion has been completed. Finally, the Commission believes that the replacement of the term ''Non-routable Limit Order'' with the term ''Non-Routable Limit Order'' is a non-substantive change to conform the designation of the order type. For the foregoing reasons, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[14]

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) [15] 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–NYSEAMER–2017–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2017–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving 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).

[15] 15 U.S.C. 78s(b)(2)(B).

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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2017–34 and should be submitted on or before December 29, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26450 Filed 12–7–17; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82209; File No. SR–IEX–2017–41]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules 14.501(a)(4), 14.501(d), and 14.502(b) To Modify the Process IEX Would Follow When a Company Fails To Hold an Annual Meeting of Shareholders, and To Correct Three Nonsubstantive Typographical Errors in Rules 14.502(b) and 14.504(b)

December 4, 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 November 20, 2017, the Investors Exchange LLC (''IEX'' or 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 Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[3] and Rule 19b–4 thereunder,[4] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Commission proposed rule change to amend Rules 14.501(a)(4), 14.501(d), and 14.502(b) to modify the process IEX would follow when a company fails to hold an annual meeting of shareholders, and to correct three nonsubstantive typographical errors in Rules 14.502(b) and 14.504(b). The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[5] The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[3] 15 U.S.C. 78s(b)(1).

[4] 17 CFR 240.19b–4.

[5] 17 CFR 240.19b–4(f)(6)(iii).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement [sic] may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 17, 2016, the Commission granted IEX's application for registration as a national securities exchange under Section 6 of the Act including approval of rules applicable to the qualification, listing and delisting of companies on the Exchange.[6] The Exchange plans to begin listing companies in 2018.

Each company that would list common stock or voting preferred stock, and their equivalents, on IEX must hold an annual meeting of shareholders no later than one year after the end of the company's fiscal year and solicit proxies for that meeting.[7] An annual meeting allows the equity owners of the company the opportunity to elect directors and meet with management to discuss company affairs. Currently, should a company fail to hold its annual meetings as required by Rule 14.408, staff of IEX Regulation (''Staff'') would have no discretion to allow additional time for the company to regain compliance. Rather, Staff would be required by Rule 14.501(d)(1) to issue a Delisting Determination, subjecting the company to immediate suspension and delisting unless the company appeals to the Listings Review Committee.[8] IEX proposes to amend Rules 14.501(a)(4), 14.501(d), and 14.502(b) to provide Staff with limited discretion to grant a listed company that failed to hold its annual meeting of shareholders an extension of time to comply with the requirement.[9]

IEX notes that the only other rule where a company would be subject to immediate suspension and delisting, besides when it fails to solicit proxies and hold an annual meeting, would be when Staff makes a determination pursuant to the Rule Series 14.100 that the company's continued listing raises a public interest concern. Such a determination would generally be made only following discussion and review of the facts and circumstances with the company. For all other deficiencies under Chapters 14 and 16 of the IEX rules, a listed company is provided with either a fixed compliance period within which to regain compliance,[10] or given

[6] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (File No. 10–222).

[7] *See* Rules 14.408(a) and (b), respectively. Rule 14.407(a)(4)(D) also requires a limited partnership to hold an annual meeting of limited partners if required by statute or regulation in the state in which the limited partnership is formed or doing business or by the terms of the partnership's limited partnership agreement. Rule 14.407(a)(4)(F) requires the limited partnership to distribute information statements or proxies when a meeting of limited partners is required. The proposed process described herein would apply in the identical manner to limited partnerships required to hold a meeting as it does to other companies. *See* also Rules 14.407(a)(4)(D) and (F) (partner meetings and proxy solicitation of limited partnerships).

[8] A listed company may request review of a Staff Delisting Determination by the Listings Review Committee. A timely request for a hearing will stay the suspension and delisting pending the issuance of a written Panel Decision. *See* Rule 14.502.

[9] The Exchange notes that listed companies and certain limited partnerships are also required to solicit proxies and provide proxy statements for all meetings of shareholders or partners. *See* Rules 14.408(b) and 14.407(a)(4)(F), respectively. A listed company or limited partnership that has not timely held an annual meeting has not violated the proxy solicitation rule because no meeting has been held.

[10] *See* Rule 14.501(d)(3).

the opportunity to submit a plan to regain compliance, which Staff would review and determine whether to grant the company a limited time to implement.[11] Generally, a company would be allowed 45 days to submit the plan of compliance [12] and, upon review of the plan, Staff could grant the company up to 180 days from the date of Staff's initial notification of the company's non-compliance to regain compliance.[13] If upon review of the company's plan Staff determines that an extension is not warranted, Staff would issue a Delisting Determination,[14] which triggers the company's right to request review by the Listings Review Committee.[15]

There are a variety of reasons a company may fail to timely hold an annual meeting. In many of these cases, the circumstances that precipitated the delay may arise just before a planned meeting. These can include, for example, situations where a company was required to adjourn and reschedule its annual meeting to allow its shareholders more time to review proxy materials in connection with a shareholder proxy contest. In other cases, a company could be unable to hold an annual meeting because it was delinquent in filing periodic reports and therefore could not include the required financial information in its proxy statement. In that case, under current listing rules, the company could receive an extension of time to regain compliance with the filing requirement. However, if during any such compliance period the company fails to hold an annual meeting of shareholders, Staff would be required to issue a delist determination at that time for both the filing delinquency and the annual meeting deficiency, even if the compliance period for the filing delinquency had not expired.[16] Under these circumstances, as required by the Listing Rules, Staff would notify the company in writing of the annual meeting deficiency [17] and the company would be required to publicly disclose such notification.[18] The annual meeting deficiency would then be considered at the same time and together with the filing delinquency in any subsequent delisting proceeding.[19]

For these reasons, IEX is proposing to amend Rules 14.501(a)(4), 14.501(d), and 14.502(b) to afford those companies and limited partnerships that fail to hold an annual meeting in accordance with the listing rules an opportunity to submit a plan of compliance for Staff's review.[20] As proposed, Rule 14.501(d)(2)(G) is entitled ''Annual Meeting'' and specifies the process applicable to deficiencies from the standards of Rules 14.408(a) and 14.407(a)(4)(D), which relate to Annual Meetings and Partner Meetings respectively. Subparagraph (i) provides that the Staff's notice shall provide the Company with 45 calendar days to submit a plan to regain compliance with the listing standard; provided, however, that the Company shall not be provided with an opportunity to submit such a plan if review under the Rule Series 14.500 of a prior Staff Delisting Determination with respect to the Company is already pending. Staff may extend this deadline for up to an additional 15 calendar days upon good cause shown and may request such additional information from the Company as is necessary to make a determination regarding whether to grant such an extension. Subparagraph (ii) provides that the maximum additional time provided by all exceptions granted by Staff is 180 calendar days from the deadline to hold the annual meeting (one year after the end of the Company's fiscal year). In determining whether to grant an exception, and the length of any such exception, Staff will consider, and the Company should address in its plan of compliance, the Company's specific circumstances, including the likelihood that the Company would be able to hold an annual meeting within the exception period, the Company's past compliance history, the reasons for the failure to hold the annual meeting timely, corporate events that may occur within the exception period, the Company's general financial status, and the Company's disclosures to the market. This review will be based on information provided by a variety of sources, which may include the Company, its audit committee, its outside auditors, the staff of the SEC and any other regulatory body.

Additionally, proposed Rule 14.502(b)(1)(F) provides that the Listings Review Committee may grant an exception for a period not to exceed 360 days from the deadline to hold the annual meeting (one year after the end of the Company's fiscal year).[21] This time frame is consistent with the limit on extensions that Nasdaq provides for its listed companies that fail to timely hold an annual meeting,[22] and would incorporate any extension of time previously provided by the Staff, and is not cumulative with the 180 calendar day extension that the Staff can provide. IEX believes that the proposed rule change would provide consistency with the administration of other continued listing standards without undermining the requirement that IEX-listed companies hold annual meetings. Specifically, under existing IEX listing rules, a company that becomes deficient with the continued listing standards identified in IEX Rule 14.501(d)(2) and (3) is provided with either an opportunity to submit a plan to regain compliance or a specified cure period (as applicable) after it becomes deficient of up to 180 calendar days. Thereafter, if such company has not regained compliance it will receive a Staff Delisting Determination, but can appeal to the Listings Review Committee which has authority to grant an exception to the continued listing standards for an additional period not to exceed 180 days from the date of the Staff Delisting Determination with respect to the deficiency for which the exception is granted.[23]

A non-compliant company would have to publicly disclose, under both Commission and IEX rules, that it had

[11] *See* Rule 14.501(d)(2).

[12] Companies deficient with the filing requirement for periodic reports are provided up to 60 days to submit a plan of compliance. *See* Rule 14.501(d)(2)(F). Staff can shorten these deadlines where deemed appropriate.

[13] *See* Rule 14.501(d)(2)(B)(i).

[14] *See* Rule 14.501(d)(2)(B)(ii).

[15] *See* Rule 14.502.

[16] *See* Rule 14.501(d)(2)(A).

[17] *See* Rule 14.501(b).

[18] *See* Rule 14.501(c).

[19] *See* Rule 14.501(e).

[20] As noted above, the company or limited partnership generally would have 45 days to submit a plan to regain compliance, although Staff could shorten that period where it believes appropriate.

[21] It is IEX's understanding that a substantial majority of Nasdaq-listed companies that received delisting notices for failing to solicit proxies and hold their annual meetings regain compliance within a six-month period. *See* Securities Exchange Act Release No. 77137 (February 12, 2016), 81 FR 8582 (February 19, 2016) (SR–NASDAQ–2015–144).

[22] *See* Nasdaq Rule 5815(c)(1)(G).

[23] As proposed, the 360 calendar day limit on extensions for annual meeting deficiencies would be several weeks less than the total amount of time that can be granted under current rules for the other continued listing deficiencies. As proposed, for annual meeting deficiencies, the maximum amount of time that can be granted is 360 days from deadline to hold an annual meeting (*i.e.,* one year after the end of the Company's fiscal year end). In contrast, for other continued listing deficiencies that allow for a cure period or opportunity to submit a plan to regain compliance (except for number of market makers) the cure period or compliance plan extension can extend for 180 days, and then the Listings Review Committee can provide an additional 180 calendar days to regain compliance through an appeal. These 180 calendar day measurement periods include the time for Staff notification to the company plus the 15 calendar day appeal deadline and so in total would be greater 360 calendar days from the date of deficiency. *See* Rules 14.501(d)(2) and (3) and 14.502(b)(1)(A).

received notification of non-compliance with the annual meeting rule.[24]

IEX is also proposing to modify Rule 14.501(a)(4) to make clear that a Public Reprimand Letter [25] is not an available notification type for unresolved deficiencies from the standards of Rules 14.207(c) (obligation to file periodic financial reports), 14.407(a)(4)(D) (partner meetings of limited partnerships), and 14.408(a) (meetings of shareholders). This proposed change is substantially identical to Nasdaq Rule 5810(4). IEX Rule 14.500(b)(5) provides that a ''Public Reprimand Letter'' may be issued by the Staff or a Decision of the Listings Review Committee in cases where the Company has violated an Exchange corporate governance or notification listing standard (other than one required by Rule 10A–3 of the Act) and Staff or the Listings Review Committee determines that delisting is an inappropriate sanction. While the Exchange does not believe that the obligation to file periodic financial reports or hold an annual meeting fall within the coverage of Rule 14.500(b)(5), in view of Nasdaq's amendment to its comparable rule, the Exchange believes that the added clarity is appropriate to avoid any confusion among listed companies on a going forward basis.

In addition, IEX is proposing conforming amendments to Rules 14.501(d)(2)(A)(iii) and 14.501(d)(2)(B) to reflect that listed companies that are deficient with respect to the standards requiring annual meetings of shareholders or partner meetings of limited partners, pursuant to Rules 14.408(a) and 14.407(a)(4)(D) respectively, are included in the deficiencies for which a listed company may submit a Plan of Compliance for Staff review.

Finally, IEX is proposing to correct three nonsubstantive typographical errors in Rules 14.502(b) and 14.504 which incorrectly refer to the Listing Review Committee rather than the Listings Review Committee.

The Exchange does not propose to charge any fees in connection with the proposed rule change.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with Section 6(b) [26] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act,[27] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the proposed changes are consistent with these requirements because they would provide a more efficient process to address annual meeting deficiencies by permitting staff to grant additional time to a company to comply with the annual meeting requirement in limited situations after Staff review of a compliance plan. The proposed changes, are consistent with the time frames available to Nasdaq companies that fail to hold an annual meeting, as well as the time frames available to IEX listed companies that become noncompliant with other continued listing standards, as described in the Purpose section. Furthermore, as is the case under the current rule, a company notified that it is deficient in the annual meeting requirement is required to publicly disclose such notice and the rules basis for it. IEX will also separately publicly disclose a list of noncompliant companies and the listing standards with which they do not comply. Accordingly, the Exchange believes that the proposed rule would protect investors and the public interest.

As described in the Purpose section, there are various reasons why a company may not be able to hold an annual meeting and for which immediate delisting is an inappropriate outcome under the circumstances. In lieu of the current requirement, which would require that Staff send an immediate Delisting Determination in such circumstances, the proposal vests Staff with discretion to determine whether the reason for the deficiency and the plan to regain compliance merit an extension. The listing rules allow Staff such discretion for other deficiencies, and the only case where Staff would be required to send an immediate Delisting Determination is where Staff concludes, after review of the facts and circumstances, that continued listing is contrary to the public interest. IEX believes that it is consistent with the Act to provide Staff with discretion to grant an extension for an annual meeting deficiency based on a plan of compliance, consistent with the process that would be applicable for the majority of deficiencies under existing IEX listing rules. Accordingly, the Exchange believes that the proposal promotes the requirements of the Act by providing Staff with such limited discretion while maintaining Staff authority to initiate delisting of a company when warranted.

The Exchange also notes that the proposed rule change is substantially identical to existing Nasdaq rules that were approved by the Commission, with differences only to account for the IEX streamlined delisting appeal structure (compared to the multiple levels of appeal provided for in Nasdaq rules) and terminology.[28]

In its approval of the Nasdaq rule filing adopting comparable rules, the Commission stresses that ''[t]he development and enforcement of meaningful corporate governance listing standards for a national securities exchange is of substantial importance to financial markets and the investing public'' as well as the critical importance of annual meetings of shareholders to allow shareholders the ability to exercise their rights to participate in corporate governance matters. The Commission also emphasized that under the Nasdaq proposal, ''Staff retains discretion not to grant an exception from the continued listing requirements to a company that has failed to hold its annual meeting on time'' and that ''[t]he Commission expects Staff to exercise this discretion carefully and discerningly. . . and based on the specified rule factors.'' [29] In approving the Nasdaq rule filing the Commission thus found that such rule change was reasonably designed to further the goals of Section 6(b)(5) of the Act. As discussed in the Purpose section, the Exchange will retain the same discretion, subject to the same standards, pursuant to proposed Rule 14.501(d)(2)(G).

The Exchange believes that the same factors and analysis that led to the Commission's approval of the comparable Nasdaq rule change are applicable to IEX's proposed rule change. Consequently, the Exchange does not believe that the proposed rule change raises any new or novel issues.

The Exchange also believes that it is consistent with the protection of investors and the public interest to make clear in IEX rules that a Public Reprimand Letter does not apply to deficiencies from the obligation to file periodic financial reports or the requirement to hold an annual meeting

[24] *See* Rule 14.501(c) and Supplementary Material .01. *See* also Item 3.01 of SEC Form 8–K.

[25] *See* Rule 14.500(b)(5).

[26] 15 U.S.C. 78f.

[27] 15 U.S.C. 78f(b)(5).

[28] *See* Securities Exchange Act Release No. 77137 (February 12, 2016), 81 FR 8582 (February 19, 2016) (SR–NASDAQ–2015–144).

[29] *See* supra note 28.

in order to provide transparency that the only cure under Exchange rules is for the company to file the periodic financial report or hold its annual meeting.

Finally, the Exchange believes that it is consistent with the protection of investors and the public interest to correct the three nonsubstantive typographical errors in Rules 14.502(b) and 14.504 to avoid any confusion among potential listed companies.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to promote consistent and fair regulation, rather than for any competitive purpose. Moreover, as a new listing exchange, IEX has extremely limited ability to impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [30] of the Act and Rule 19b–4(f)(6) [31] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) 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 shall institute proceedings under Section 19(b)(2)(B) [32] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2017–41 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–IEX–2017–41. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–IEX–2017–41 and should be submitted on or before December 29, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26447 Filed 12–7–17; 8:45 am]

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[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b–4(f)(6).

[32] 15 U.S.C. 78s(b)(2)(B).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82210; File No. SR–BX–2017–052]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4759

December 4, 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 November 28, 2017, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add additional detail about the purposes for which the Exchange uses securities information processor data pursuant to Rule 4759, and to make other technical corrections to that rule.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 add additional detail about the purposes for which the Exchange uses securities information processor (''SIP'') data pursuant to Rule 4759, and to make other technical corrections to that rule. Rule 4759 lists the proprietary and network processor feeds that are utilized for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions. The BX trading system utilizes proprietary market data as the Primary Source of quotation data for the following markets that provide a reliable direct feed: NYSE American, Nasdaq BX, CBOE EDGA, CBOE EDGX, CHX, NYSE, NYSE Arca, Nasdaq, Nasdaq PSX, CBOE BYX, and CBOE BZX.[3] For each of these markets, the Exchange uses SIP data as the Secondary Source of quotation data.[4]

Generally, Rule 4759 provides that the Primary Source of data is used for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions, unless it is delayed by a configurable amount compared to the Secondary Source of data. While this is true for quotation data used by the trading system for the handling, routing, and execution of orders, and also regulatory compliance processes related to those functions, including, for example, determination of trade-throughs under Rule 611 of Regulation NMS, the Exchange uses SIP data for certain trade and administrative messages. For example, the Exchange uses SIP data for limit-up limit-down price bands, market-wide circuit breaker decline and status messages, Regulation SHO state messages, trading state messages (*i.e.,* halts and resumes), and trade messages (*i.e.,* last sale). As described in more detail below, with the exception of last sale information, these messages originate from the SIP, and are often not available on the direct feeds. To mitigate risks associated with a potential SIP outage, however, where the information is available on a direct feed from one or more exchanges, the Exchange uses such direct feed data solely as a backup to the SIP data.

The Exchange therefore proposes to amend Rule 4759 to provide that the BX System consumes *quotation data* from the listed proprietary and network processor feeds for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions.[5] Furthermore, with the proposed changes, Rule 4759 will provide that the SIP is the Primary Source of certain trade and administrative messages such as limit-up limit-down price bands, market-wide circuit breaker decline and status messages, Regulation SHO state messages, halts and resumes, and last sale information, and that, where available, the direct feeds are the Secondary Source of such information. For the reasons discussed in this filing, the Exchange believes that it is appropriate to use the SIP as the Primary Source of data for these trade and administrative messages. Limit-up limit down price bands, for instance, are not available on any of the direct feeds used by the Exchange as these bands are calculated and disseminated by the SIP pursuant to the Plan to Address Extraordinary Market Volatility. Similarly, market-wide circuit breaker decline and status messages, Regulation SHO state messages, and trading state messages are available on some but not other direct feeds. Again, the SIP is responsible for calculating any decline in the S&P 500 Index and disseminating halt messages for the market-wide circuit breaker, and also for disseminating other halts, resumes, and Regulation SHO state messages. In addition, the Exchange's trading system consumes last sale information from the SIP, which is used for the limited purpose of determining when the Exchange can open securities after an IPO.[6] Although last sale information is disseminated on proprietary market data feeds, this information is typically included in a different market data product than the Exchange uses for quotation data, and the Exchange's trading system therefore also consumes last sale information from the SIP for the limited purpose described above.

Finally, the Exchange proposes to make additional technical amendments to Rule 4759. Specifically, several of the exchanges and direct market data feeds described in the rule have been renamed since the Exchange adopted the rule. The Exchange therefore propose to: (1) Rename the exchanges described in the rule so that the exchanges are identified by their new names,[7] and (2) replace the names of the individual direct feeds with a generic notation that the ''Direct Feed'' is used to avoid the need for future updates every time an exchange changes the name of its proprietary market data offerings. These changes are technical amendments and will have no impact on the operation of the Exchange or its use of the identified market data feeds.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional transparency around the purposes for which the Exchange uses SIP data. The proposed rule change does not change the operation of the Exchange or its use of data feeds; rather it clarifies the Exchange's rules with regard to information consumed from the SIP. Specifically, the proposed rule change indicates that the Exchange uses SIP data for certain administrative messages, including, limit-up limit-down price bands, market-wide circuit breaker decline and status messages, Regulation SHO state messages, and trading state messages (*i.e.,* halts and resumes), as well as trade messages (*i.e.,* last sale). At least one other exchange uses SIP data for these purposes, while continuing to use the direct feeds for quotation data where the direct feeds often offer reduced latency.[10]

The Exchange believes that it is appropriate to use SIP data as the primary source for administrative

[3] Several of the exchanges mentioned in this filing have been renamed recently; the names used herein reflect the current names of the exchanges. This proposed rule change also includes amendments to reflect the new names for these exchanges.

[4] SIP data is used as the Primary Source for NYSE National, FINRA ADF, and IEX. There is no Secondary Source for these markets.

[5] The Exchange notes that the rule language currently provides that the Exchange ''utilizes'' these feeds. As a non-substantive change, the Exchange is changing this word to ''consumes'' as this word fits better with language being added to the rule.

[6] The Exchange waits for a last sale from the listing market prior to starting the Exchange's opening process following an IPO on another market.

[7] The new names of each of the exchanges described in Rule 4759 are used earlier in this filing. *See* notes 4–5 supra and accompanying text.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* IEX Rule 11.410(a)(3).

messages that originate from the SIP and may or may not be available on particular proprietary market data feeds. Although quote data used for the handling, routing, and execution of orders is typically available with a lower latency over the direct feeds, the same is not true for the administrative messages described above that originate from the SIP and are re-disseminated (or not disseminated at all) by the various direct feeds. The Exchange therefore believes that it is consistent with the public interest and protection of investors to get this information directly from the SIP, *i.e.,* the official source of the information, rather than indirectly from proprietary market data feeds that may or may not redistribute such information. Furthermore, with respect to last sale information, such information is used by the trading system for the limited purposes described in this filing, and is not typically available on the direct feeds that the Exchange uses for quotation data. The Exchange therefore also believes that it is appropriate to get last sale information from the SIP. Where the information described in this filing is available on a direct feed, however, direct feed data will be used in the event failover is necessary, thereby adding redundancy and mitigating risks associated with a potential SIP outage.

The proposed rule change also makes certain technical amendments to Rule 4759, including updating the names of exchanges that have been renamed since the adoption of this rule. The Exchange believes that it is consistent with the public interest and the protection of investors to update the names of the exchanges listed in Rule 4759 as this change will make it easier for market participants to identify the exchanges for which the Exchange uses the direct feed and/or SIP for the purposes described in the rule. Furthermore, the proposed rule change replaces the names of the direct feeds with a generic notation that the ''Direct Feed'' is used. The Exchange believes that this change is consistent with the protection of investors and the public interest as the exchanges may change the names of their data feeds periodically, resulting in the list being out of date. Rather than update the list every time a market changes the names of their [sic] proprietary market data products, the Exchange believes that it is preferable to simply explain that the direct feed is used. Several other exchanges also similarly note that the direct feed is used rather than spelling out the names of each feed.[11]

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 proposed rule change is not designed to address any competitive issue but rather would provide members and other market participants with information about the purposes for which the Exchange uses SIP data, and make other technical corrections to Rule 4759. No changes to the Exchange's trading or other systems are being introduced with the proposed rule change, and the Exchange believes that the proposed changes will increase transparency around the operation of the Exchange and its use of market data feeds without 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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[14] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to clarify the purposes for which the Exchange uses SIP data and avoid potential confusion among market participants. Accordingly, the Commission hereby waives the operative delay and designates the proposal 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.

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–BX–2017–052 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–BX–2017–052. 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

[11] *See e.g.* IEX Rule 11.410(a); CBOE BZX Rule 11.26.

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2017–052 and should be submitted on or before December 29, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26448 Filed 12–7–17; 8:45 am]

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[17] 17 CFR 200.30–3(a)(12).

SURFACE TRANSPORTATION BOARD

[Docket No. AB 6 (Sub-No. 497X)]

BNSF Railway Company—Abandonment Exemption—in Benton County, Minn.

BNSF Railway Company (BNSF) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F–*Exempt Abandonments* to abandon a 1.75-mile line of railroad located between milepost 0.0 and milepost 1.75 in Benton County, Minn. (the Line).[1] The Line traverses United States Postal Zip Code 56379.

BNSF has certified that: (1) No local or overhead freight rail traffic has traveled over the Line since July 2015; (2) no formal complaint filed by a user of a rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (3) the requirements at 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.[2]

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 9, 2018, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 18, 2017. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 28, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.[5]

A copy of any petition filed with the Board should be sent to Karl Morell, Karl Morell & Associates, 440 1st Street NW., Suite 440, Washington, DC 20001.

If the verified notice contains false or misleading information, the exemption is void ab initio.

BNSF has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by December 15, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line.

If consummation has not been effected by BNSF's filing of a notice of consummation by December 7, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: December 5, 2017.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2017–26515 Filed 12–7–17; 8:45 am]

BILLING CODE 4915–01–P

[1] As originally filed, the verified notice indicated that the Line is in Stearns County, Minn. On December 4, 2017, BNSF filed a correction (including an updated map) indicating that the Line is located in Benton County, Minn., a short distance north and east of Stearns County. According to BNSF, its notice is correct in all other respects.

[2] BNSF's December 4 correction indicates that the St. Cloud Times, where notice of the proposed abandonment was published, is a newspaper of general circulation in Benton County. BNSF also states that it will serve a copy of the Environmental Report on the Administrator for Benton County, Minn.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Each OFA must be accompanied by the filing fee, which is currently set at $1,800. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update,* EP 542 (Sub-No. 25), slip op. App. C at 20 (STB served July 28, 2017).

[5] BNSF states that the Line may be suitable for other public purposes and that there are 18.60 acres on the Line of which 0.02 acres are reversionary.

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2017–0129]

Pipeline Safety: Underground Natural Gas Storage Facility User Fee

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of agency action and request for comment.

SUMMARY: On August 16, 2017, the Office of Management and Budget approved the collection of calendar year (CY) 2017 Underground Natural Gas Storage (UNGS) Facility Annual Reports. This notice includes a PHMSA

proposal to use CY 2017 annual report data in the user fee rate structure for both fiscal year (FY) 2018 and 2019.

DATES: PHMSA invites interested persons to comment on the underground natural gas storage facility data collection described in this notice by January 8, 2018.

ADDRESSES: Comments should reference Docket No. PHMSA–2017–0129. Comments may be submitted in the following ways:

- *E-Gov Web site: http://www.regulations.gov*. This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590.

Hand Delivery: DOT Docket Management System, Room W12–140, on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except federal holidays.

Instructions: Identify the docket number PHMSA–2017–0129 at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov*.

Note: Comments will be posted without changes or edits to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act Statement below for additional information.

Privacy Act Statement

Anyone may search the electronic form of all comments received for any of our dockets. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19476), or visit *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Crystal Stewart by telephone at 202–366–1524, by fax at 202–366–4566, by email at *Crystal.Stewart@dot.gov,* or by mail at U.S. Department of Transportation, PHMSA, 1200 New Jersey Avenue SE., PHP–2, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) (Pub. L. 99–272, sec. 7005), codified at 49 U.S.C. 60301, authorizes the assessment and collection of user fees to fund the pipeline safety activities conducted under Chapter 601 of Title 49. COBRA requires that the Secretary of Transportation establish a schedule of fees for pipeline usage, bearing a reasonable relationship to miles of pipeline, volume-miles, revenues, or an appropriate combination thereof. In particular, the Secretary must take into account the allocation of departmental resources in establishing the schedule.[1] In accordance with COBRA, PHMSA also assesses user fees on operators of liquefied natural gas facilities as defined in 49 CFR part 193 and UNGS facilities as defined in 49 CFR part 192.

On June 22, 2016, President Obama signed into law the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016 (Pub. L. 114–183) (PIPES Act of 2016). Section 12 of the PIPES Act of 2016 mandates PHMSA to issue regulations for underground natural gas storage facilities, impose user fees on operators of these facilities, and prescribe procedures to collect those fees. Section 2 of the PIPES Act of 2016 authorizes $8 million per year to be appropriated from those fees for each of FYs 2017 through 2019 for the newly established UNGS Facility Safety Account in the Pipeline Safety Fund. PHMSA is prohibited from collecting a user fee unless the expenditure of such fee is provided in advance in an appropriations act. If Congress appropriates funds to this account for FY 2018 and 2019, PHMSA will collect these fees from the operators of the facilities.

For FY 2017 UNGS facility user fee billing, PHMSA used Energy Information Agency data to develop the UNGS facility user fee rate structure. On August 16, 2017, the Office of Management and Budget approved the collection of CY 2017 UNGS Annual Reports. The CY 2017 Annual Reports are due March 15, 2018. (82 FR 45946; Oct. 2, 2017.) PHMSA expects to start accepting UNGS Annual Reports in the PHMSA Portal (*https://portal.phmsa.dot.gov/portal*) no later than February 15, 2018.

During the FY 2018 user fee process, PHMSA will use CY 2016 annual report data for gas transmission pipelines, hazardous liquid pipelines, and liquefied natural gas facilities. Using CY 2016 data ensures adequate time to verify annual report data quality and still be able to send user fee assessments promptly after appropriation. If Congress appropriates UNGS funds for FY 2018 and 2019, PHMSA will use the CY 2017 UNGS annual report data to develop the UNGS user fee rate structure for both FY 2018 and 2019. Specifically, PHMSA will use the number of injection/withdraw wells (section C7 of the UNGS annual report) and monitoring/observation wells (section C8 of the UNGS annual report) in the rate structure.

PHMSA proposes the following steps for developing the user fee rate structure. PHMSA will sum the number of wells from sections C7 and C8 of the UNGS annual report for each operator. The operator well counts will be parsed into 10 tiers. The lowest values will be in tier 1 and the highest values in tier 10. The minimum and maximum well counts for each tier will be selected to place an equal number of operators in each tier. The tier fee structure is designed to place a larger share of the user fee on operators with higher well counts. The following percentages of the total user fee would be billed to each tier:

Tier	Percentage of total
1	2
2	4
3	5
4	6
5	8
6	10
7	12
8	13
9	15
10	25

PHMSA will not know the total amount of user fees until Congress completes appropriation for FY 2018. Since PHMSA does not currently have data on the number of wells in UNGS facilities, we can provide neither tier boundaries nor fee per tier.

Issued in Washington, DC, on December 1, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2017–26485 Filed 12–7–17; 8:45 am]

BILLING CODE 4910–60–P

[1] Pipeline user fee assessments under COBRA were upheld by the U.S. Supreme Court in *Skinner* v. *Mid-America Pipeline Co.,* 490 U.S. 212 (1989).

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket ID PHMSA–2018–0137]

Pipeline Safety: Random Drug Testing Rate; Contractor Management Information System Reporting; and Obtaining Drug and Alcohol Management Information System Sign-In Information

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of Calendar Year 2018 Minimum Annual Percentage Rate for Random Drug Testing; Reminder for Operators to Report Contractor MIS Data; and Reminder of Method for Operators to Obtain User Name and Password for Electronic Reporting.

SUMMARY: PHMSA has determined that the minimum random drug testing rate for all covered employees will be 50 percent during calendar year 2018. Operators are reminded that drug and alcohol testing information must be submitted for contractors performing or ready to perform covered functions. For calendar year 2017 reporting, PHMSA will not attempt to mail the ''user name'' and ''password'' for the Drug and Alcohol Management Information System (DAMIS) to operators, but will make the user name and password available in the PHMSA Portal (*https://portal.phmsa.dot.gov/pipeline*).

DATES: Effective January 1, 2018, through December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Wayne Lemoi, Drug & Alcohol Program Manager, at 909–937–7232 or by email at *wayne.lemoi@dot.gov* or Blaine Keener, Director of Safety Data Systems and Analysis, at 202–366–0970 or by email at *blaine.keener@dot.gov*.

SUPPLEMENTARY INFORMATION:

Notice of Calendar Year 2018 Minimum Annual Percentage Rate for Random Drug Testing

Operators of gas, hazardous liquid, and carbon dioxide pipelines and operators of liquefied natural gas facilities must randomly select and test a percentage of all covered employees for prohibited drug use. Pursuant to 49 CFR 199.105(c)(1) the PHMSA minimum annual random drug testing rate shall be 50 percent of all covered employees for calendar year 2018.

While the minimum annual random drug testing rate was 25 percent of all covered employees for calendar year 2017, paragraph 49 CFR 199.105(c)(4) requires the Administrator to raise the minimum annual random drug testing rate from 25 percent to 50 percent of all covered employees when the data obtained from the Management Information System (MIS) reports required by § 199.119(a) indicate the positive test rate is equal to or greater than 1 percent. In calendar year 2016, the random drug test positive rate was greater than 1 percent. Therefore, the PHMSA minimum annual random drug testing rate shall be 50 percent of all covered employees for calendar year 2018.

Reminder for Operators To Report Contractor MIS Data

On January 19, 2010, PHMSA published an Advisory Bulletin (75 FR 2926) implementing the annual collection of contractor MIS drug and alcohol testing data. An operator's report to PHMSA is not considered complete until an MIS report is submitted for each contractor that performed covered functions as defined in § 199.3.

Reminder of Method for Operators To Obtain User Name and Password for Electronic Reporting

In previous years, PHMSA attempted to mail the DAMIS user name and password to operator staff with responsibility for submitting DAMIS reports. Based on the number of phone calls to PHMSA each year requesting this information, the mailing process has not been effective. Pipeline operators have been submitting reports required by Parts 191 and 195 through the PHMSA Portal (*https://portal.phmsa.dot.gov/pipeline*) since 2011. Each company with an Office of Pipeline Safety issued Operator Identification Number should employ staff with access to the PHMSA Portal.

The user name and password required for an operator to access DAMIS and enter calendar year 2017 data will be available to all staff with access to the PHMSA Portal in late December 2017. When the DAMIS user name and password are available in the PHMSA Portal, all registered users will receive an email to that effect. Operator staff with responsibility for submitting DAMIS reports should coordinate with registered PHMSA Portal users to obtain the DAMIS user name and password. Registered PHMSA Portal users for an operator typically include the U.S. Department of Transportation Compliance Officer and staff or consultants with responsibility for submitting annual and incident reports on PHMSA F 7000- and 7100-series forms.

For operators that have failed to register staff in the PHMSA Portal for Parts 191 and 195 reporting purposes, operator staff responsible for submitting DAMIS reports can register in the PHMSA Portal by following the instructions at: *http://opsweb.phmsa.dot.gov/portal_message/PHMSA_Portal_Registration.pdf*.

Pursuant to §§ 199.119(a) and 199.229(a), operators with 50 or more covered employees, including both operator and contractor staff, are required to submit DAMIS reports annually. Operators with less than 50 total covered employees are required to report only upon written request from PHMSA. If an operator has submitted a calendar year 2015 or later DAMIS report with less than 50 total covered employees, the PHMSA Portal message may state that no calendar year 2017 DAMIS report is required. Some of these operators may have grown to more than 50 covered employees during calendar year 2017. The PHMSA Portal message will include instructions for how these operators can obtain a calendar year 2017 DAMIS user name and password.

Issued in Washington, DC on December 1, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2017–26484 Filed 12–7–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Survey of U.S. Ownership of Foreign Securities

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before January 8, 2018 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and

Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Departmental Offices (DO)

Title: Survey of U.S. Ownership of Foreign Securities.

OMB Control Number: 1505–0146.

Type of Review: Revision of a currently approved collection.

Abstract: The survey will collect information on U.S. holdings of foreign securities. The information will be used in the computation of the U.S. balance of payments accounts and international investments position, as well as in the formulation of U.S. financial and monetary policies. This survey is also part of an international effort coordinated by the IMF to improve worldwide balance of payments statistics. Respondents are primarily the largest custodians of securities, banks, securities dealers, and investors.

Form: TDF–SHC, TDF–SHCA.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 59,752.

Authority: 44 U.S.C. 3501 et seq.

Dated: December 4, 2017.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2017–26458 Filed 12–7–17; 8:45 am]

BILLING CODE 4810–25–P

FEDERAL REGISTER

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Part II

Department of the Interior

Bureau of Land Management

43 CFR Parts 3160 and 3170

Waste Prevention, Production Subject to Royalties, and Resource Conservation; Delay and Suspension of Certain Requirements; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3160 and 3170

[18X.LLWO310000.L13100000.PP0000]

RIN 1004–AE54

Waste Prevention, Production Subject to Royalties, and Resource Conservation; Delay and Suspension of Certain Requirements

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is promulgating a final rule (2017 final delay rule) to temporarily suspend or delay certain requirements contained in the rule published in the **Federal Register** on November 18, 2016, entitled, ''Waste Prevention, Production Subject to Royalties, and Resource Conservation'' (2016 final rule) until January 17, 2019. The BLM has concerns regarding the statutory authority, cost, complexity, feasibility, and other implications of the 2016 final rule, and therefore intends to avoid imposing likely considerable and immediate compliance costs on operators for requirements that may be rescinded or significantly revised in the near future. The 2017 final delay rule does not substantively change the 2016 final rule, but simply postpones implementation of the compliance requirements for certain provisions of the 2016 final rule for 1 year.

DATES: This rule is effective on January 8, 2018.

FOR FURTHER INFORMATION CONTACT: Catherine Cook, Acting Division Chief, Fluid Minerals Division, 202–912–7145, or *ccook@blm.gov,* for information regarding the substance of today's final delay rule or information about the BLM's Fluid Minerals program. For questions relating to regulatory process issues, contact Faith Bremner, Regulatory Analyst, at 202–912–7441, or *fbremner@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of the Final Delay Rule
III. Procedural Matters

I. Background

The BLM's onshore oil and gas management program is a major contributor to our nation's oil and gas production. The BLM manages more than 245 million acres of Federal land and 700 million acres of subsurface estate, making up nearly a third of the nation's mineral estate. In fiscal year (FY) 2016, sales volumes from Federal onshore production lands accounted for 9 percent of domestic natural gas production, and 5 percent of total U.S. oil production. Over $1.9 billion in royalties were collected from all oil, natural gas, and natural gas liquids transactions in FY 2016 on Federal and Indian lands. Royalties from Federal lands are shared with States. Royalties from Indian lands are collected for the benefit of the Indian owners.

In response to oversight reviews and a recognition of increased flaring from Federal and Indian leases, the BLM developed the 2016 final rule entitled, ''Waste Prevention, Production Subject to Royalties, and Resource Conservation,'' which was published in the **Federal Register** on November 18, 2016. See 81 FR 83008 (Nov. 18, 2016). The rule replaced the BLM's existing policy at that time, Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil and Gas Lost (NTL–4A). The 2016 final rule was intended to: Reduce waste of natural gas from venting, flaring, and leaks during oil and natural gas production activities on onshore Federal and Indian leases; clarify when produced gas lost through venting, flaring, or leaks is subject to royalties; and clarify when oil and gas production may be used royalty free on-site. The 2016 final rule became effective on January 17, 2017. Many of the 2016 final rule's provisions are to be phased in over time, and are to become operative on January 17, 2018.

Since late January 2017, the President has issued several Executive Orders that necessitate a review of the 2016 final rule by the Department. On January 30, 2017, the President issued Executive Order 13771, entitled, ''Reducing Regulation and Controlling Regulatory Costs,'' which requires Federal agencies to take proactive measures to reduce the costs associated with complying with Federal regulations. In addition, on March 28, 2017, the President issued Executive Order 13783, entitled, ''Promoting Energy Independence and Economic Growth.'' Section 7(b) of Executive Order 13783 directs the Secretary of the Interior to review four specific rules, including the 2016 final rule, for consistency with the policy articulated in section 1 of the Order and, ''if appropriate,'' to publish proposed rules suspending, revising, or rescinding those rules. Among other things, section 1 of Executive Order 13783 states that ''[i]t is in the national interest to promote clean and safe development of our Nation's vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.''

To implement Executive Order 13783, on March 29, 2017, Secretary of the Interior Ryan Zinke issued Secretarial Order No. 3349, entitled, ''American Energy Independence,'' which, among other things, directs the BLM to review the 2016 final rule to determine whether it is fully consistent with the policy set forth in section 1 of Executive Order 13783. The BLM conducted an initial review of the 2016 final rule and found that it is inconsistent with the policy in section 1 of Executive Order 13783. The BLM found that some provisions of the 2016 final rule add considerable regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. For example, despite the rule's assertions, many of the 2016 final rule's requirements would pose a particular compliance burden to operators of marginal or low-producing wells. There is newfound concern that this additional burden would jeopardize the ability of operators to maintain or economically operate these wells.

Reexamination of the 2016 final rule is also needed because the BLM is not confident that all provisions of the 2016 final rule would survive judicial review. Immediately after the 2016 final rule was issued, petitions for judicial review of the rule were filed by industry groups and certain States with significant BLM-managed Federal and Indian minerals. See *Wyoming* v. *U.S. Dep't of the Interior,* Case No. 2:16–cv–00285–SWS (D. Wyo.). Although the court denied motions for a preliminary injunction, it did express concerns that the BLM may have usurped the authority of the Environmental Protection Agency (EPA) and the States under the Clean Air Act, and questioned whether it was appropriate for the 2016 final rule to be justified based on its environmental and societal benefits, rather than on its resource conservation benefits alone. Moreover, questions have been raised over to what extend Federal regulations should apply to leases in communitization agreements when Federal mineral ownership is very small. The BLM is evaluating these issues as part of its reexamination of the rule.

Reexamination of the 2016 final rule is warranted to reassess the rule's estimated costs and benefits. In the

Regulatory Impact Analysis (RIA) for the 2016 final rule (2016 RIA), the BLM estimated that the requirements of the 2016 final rule would impose compliance costs, not including potential cost savings for product recovery, of approximately $114 million to $279 million per year (2016 RIA at 4). Certain States, tribes, and many oil and gas companies and trade associations have argued, in comments and in the litigation following the issuance of the 2016 final rule, that the BLM underestimated the compliance costs of the 2016 final rule and that the costs would inhibit oil and gas development on Federal and Indian lands, thereby reducing royalties and harming State and tribal economies. The BLM is reexamining these issues to determine whether the 2016 RIA may have underestimated costs.

Apart from this concern over costs, the 2016 RIA also may have overestimated benefits by the use of a social cost of methane that attempts to account for global rather than domestic climate change impacts. Section 5 of Executive Order 13783, issued by the President on March 28, 2017, disbanded the earlier Interagency Working Group on Social Cost of Greenhouse Gases (IWG) and withdrew the Technical Support Documents upon which the RIA for the 2016 final rule relied for the valuation of changes in methane emissions. The Executive Order further directed agencies to ensure that estimates of the social cost of greenhouse gases used in regulatory analyses ''are based on the best available science and economics'' and are consistent with the guidance contained in Office of Management and Budget (OMB) Circular A–4, ''including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates'' (E.O. 13783, Section 5(c)). The BLM is reassessing its estimates of the rule's benefits taking into account the Executive Order's directives.

The BLM also believes that a number of specific assumptions underlying the analysis supporting the 2016 final rule warrant reconsideration. For example, the BLM is reconsidering whether it was appropriate to assume that all marginal wells would receive exemptions from the rule's requirements and whether this assumption might have masked adverse impacts of the 2016 final rule on production from marginal wells. The BLM is also reconsidering whether it was appropriate to assume that there would be no delay in the BLM's review of Applications for Permits to Drill (APDs) as a result of reviewing Sundry Notices requesting exemptions from the rule's requirements, and that there would be no impact on production due to operators waiting on the BLM to review and approve such requests for exemptions. The BLM is reconsidering whether it was appropriate to assume that there would be no reservoir damage if an operator uses temporary well shut-ins to comply with the 2016 final rule's capture percentage requirements, and whether it was correct to assume that the capture percentage requirements would not have a disproportionate impact on small operators, who might have fewer wells with which to average volumes of allowable flaring. Finally, the BLM has concerns that its cost-benefit analysis for the leak detection and repair (LDAR) requirements in the 2016 final rule—which used data from the EPA's OOOOa rule (40 CFR part 60, subpart OOOOa)—was not based on the best available information and science. The BLM is reviewing the effectiveness of LDAR requirements to determine whether more accurate data is available.

Following up on its initial review, the BLM is currently reviewing the 2016 final rule to develop an appropriate proposed revision—to be promulgated through notice-and-comment rulemaking—that would propose to align the 2016 final rule with the policies set forth in section 1 of Executive Order 13783. Today's final delay rule temporarily suspends or delays certain requirements contained in the 2016 final rule until January 17, 2019. As noted above, the BLM has concerns regarding the statutory authority, cost, complexity, feasibility, and other implications of the 2016 final rule, and therefore wants to avoid imposing temporary or permanent compliance costs on operators for requirements that might be rescinded or significantly revised in the near future. The BLM also wishes to avoid expending scarce agency resources on implementation activities (internal training, operator outreach/education, developing clarifying guidance, etc.) for such potentially transitory requirements.

For certain requirements in the 2016 final rule that have yet to be implemented, this final delay rule will temporarily postpone the implementation dates until January 17, 2019, or for 1 year. For certain requirements in the 2016 final rule that are currently in effect, this final delay rule will temporarily suspend their effectiveness until January 17, 2019. A detailed discussion of the suspensions and delays is provided below. The BLM has attempted to tailor this final delay rule to target the requirements of the 2016 final rule for which immediate regulatory relief is particularly justified. Although the requirements of the 2016 final rule that are not suspended under this final delay rule may ultimately be revised in the near future, the BLM is not suspending them because it does not, at this time, believe that suspension is necessary, because the cost and other implications do not pose immediate concerns for operators. This final delay rule temporarily suspends or delays all of the requirements in the 2016 final rule that the BLM estimated would pose an immediate compliance burden to operators and generate benefits of gas savings or reductions in methane emissions. The 2017 final delay rule does not suspend or delay the requirements in subpart 3178 related to the royalty-free use of natural gas, but the only estimated compliance costs associated with those requirements are for minor and rarely occurring administrative burdens. In addition, for the most part, the 2017 final delay rule suspends or delays the administrative burdens associated with subpart 3179. Only four of the 24 information collection activities remain, and the burdens associated with these remaining items are not substantial.

The BLM promulgated the 2016 final rule, and now will suspend and delay certain provisions of that rule, pursuant to its authority under the following statutes: The Mineral Leasing Act of 1920 (30 U.S.C. 181–287), the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–360), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701–1758), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701–1785), the Indian Mineral Leasing Act of 1938 (25 U.S.C. 396a–g), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101–2108), and the Act of March 3, 1909 (25 U.S.C. 396). These statutes authorize the Secretary of the Interior to promulgate such rules and regulations as may be necessary to carry out the statutes' various purposes.[1]

Today's action temporarily suspending certain requirements of the 2016 final rule does not leave unregulated the venting and flaring of gas from Federal and Indian oil and gas leases. Indeed, regulations from the BLM, the EPA, and the States will operate to address venting and flaring during the period of the suspension. The BLM's venting and flaring

[1] See, *e.g.,* 30 U.S.C. 189 (MLA); 30 U.S.C. 359 (MLAAL); 30 U.S.C. 1751(a) (FOGRMA); 43 U.S.C. 1740 (FLPMA); 25 U.S.C. 396d (IMLA); 25 U.S.C. 2107 (IMDA); 25 U.S.C. 396. See also *Clean Air Council* v. *Pruitt,* 862 F.3d 1, 13 (D.C. Cir. 2017) (recognizing that ''[a]gencies obviously have broad discretion to reconsider a regulation at any time'' through notice and comment rulemaking).

regulations that will remain in effect during the 1-year suspension period include: Definitions clarifying when lost gas is ''avoidably lost,'' and therefore subject to royalties (§ 3179.4); restrictions on the practice of venting (§ 3179.6); limitations on royalty-free venting and flaring during initial production testing (§ 3179.103); limitations on royalty-free flaring during subsequent well tests (§ 3179.104); and restrictions on royalty-free venting and flaring during ''emergencies'' (§ 3179.105). The BLM also notes that States with significant Federal oil and gas production have regulations that restrict flaring and these regulations apply to Federal oil and gas operations in those States. See, *e.g.,* 20 Alaska Admin. Code § 25.235; Mont. Admin. R. 36.22.1220–.1221; New Mexico Administrative Code section 19.15.18.12; North Dakota Century Code section 38–08–06.4; North Dakota Industrial Commission Order 24665; 055–3 Wyo. Code R. § 39; Utah Administrative Code R649–3–20. Finally, as discussed elsewhere in this document, EPA regulations in 40 CFR 60 subparts OOOO and OOOOa address natural gas emissions from new, modified, and reconstructed equipment on oil and gas leases.

On October 5, 2017, the BLM published its proposed rule and sought comment on whether to suspend the implementation of certain requirements in the 2016 final rule until January 17, 2019 (82 FR 46458). Issues of particular interest to the BLM included the necessity of the proposed suspensions and delays, the costs and benefits associated with the proposed suspensions and delays, and whether suspension of other requirements of the 2016 final rule were warranted. The BLM was also interested in the appropriate length of the proposed suspension and delays and wanted to know whether the period should be longer or shorter (*e.g.,* 6 months, 18 months, or 2 years). The BLM allowed a 30-day comment period for the proposed delay rule to afford the public a meaningful opportunity to comment on its narrow proposal, involving a straightforward temporary suspension and delay of certain provisions of the 2016 final rule.

The BLM has engaged in stakeholder outreach in the course of developing this final delay rule. On October 16 and 17, 2017, the BLM sent correspondence to tribal governments to solicit their views to inform the development of this final delay rule. The BLM issued a proposed delay rule on September 28, 2017, which was published on October 5, 2017, and accepted public comments through November 6, 2017. The BLM received over 158,000 public comments on the proposed rule, including approximately 750 unique comments.

II. Discussion of the Final Rule

A. Section-by-Section Discussion

43 CFR 3162.3–1(j)—Drilling Applications and Plans

In the 2016 final rule, the BLM added a paragraph (j) to 43 CFR 3162.3–1, which presently requires that when submitting an APD for an oil well, an operator must also submit a waste-minimization plan. Submission of the plan is required for approval of the APD, but the plan is not itself part of the APD, and the terms of the plan are not enforceable against the operator. The purpose of the waste-minimization plan is for the operator to set forth a strategy for how the operator will comply with the requirements of 43 CFR subpart 3179 regarding the control of waste from venting and flaring from oil wells.

The waste-minimization plan must include information regarding: The anticipated completion date(s) of the proposed oil well(s); a description of anticipated production from the well(s); certification that the operator has provided one or more midstream processing companies with information about the operator's production plans, including the anticipated completion dates and gas production rates of the proposed well or wells; and identification of a gas pipeline to which the operator plans to connect. Additional information is required when an operator cannot identify a gas pipeline with sufficient capacity to accommodate the anticipated production from the proposed well, including: A gas pipeline system location map showing the proposed well(s); the name and location of the gas processing plant(s) closest to the proposed well(s); all existing gas trunklines within 20 miles of the well, and proposed routes for connection to a trunkline; the total volume of produced gas, and percentage of total produced gas, that the operator is currently venting or flaring from wells in the same field and any wells within a 20-mile radius of that field; and a detailed evaluation, including estimates of costs and returns, of potential on-site capture approaches.

In the 2016 RIA, the BLM estimated that the administrative burden of the waste-minimization plan requirements would be roughly $1 million per year for the industry and $180,000 per year for the BLM (2016 RIA at 96 and 100). The BLM is currently reviewing concerns raised by operators that the requirements of § 3162.3–1(j) may impose an unnecessary burden and can be reduced. The BLM is also evaluating concerns raised by the operators that § 3162.3–1(j) is infeasible because some of the required information is in the possession of a midstream company that is not in a position to share it with the operator prior to the operator's submission of an APD. The BLM is considering narrowing the required information and is considering whether submission of a State waste-minimization plan, such as those required by New Mexico and North Dakota, would serve the purpose of § 3162.3–1(j). The BLM is therefore suspending the waste minimization plan requirement of § 3162.3–1(j) until January 17, 2019.

This final delay rule revises § 3162.3–1 by adding ''Beginning January 17, 2019'' to the beginning of paragraph (j). The rest of this paragraph remains the same as in the 2016 final rule and the introductory paragraph is repeated in this final delay rule text only for context.

43 CFR 3179.7—Gas Capture Requirement

In the 2016 final rule, the BLM sought to constrain routine flaring through the imposition of a ''capture percentage'' requirement, requiring operators to capture a certain percentage of the gas they produce, after allowing for a certain volume of flaring per well. The capture-percentage requirement would become more stringent over a period of years, beginning with an 85 percent capture requirement (5,400 Mcf per well flaring allowable) in January 2018, and eventually reaching a 98 percent capture requirement (750 Mcf per well flaring allowable) in January 2026. An operator would choose whether to comply with the capture targets on each of the operator's leases, units or communitized areas, or on a county-wide or state-wide basis.

In the 2016 RIA, the BLM estimated that this requirement would impose costs of up to $162 million per year and generate cost savings from product recovery of up to $124 million per year, with both costs and cost savings increasing as the requirements increased in stringency (2016 RIA at 49).

The BLM is currently considering concerns raised by operators that the capture-percentage requirement of § 3179.7 is unnecessarily complex and infeasible in some regions because it may cause wells to be shut-in repeatedly (or otherwise cease production if the lease(s) does not allow for a shut in) until sufficient gas infrastructure is in place. The BLM is considering whether

the NTL–4A framework can be applied in a manner that addresses any inappropriate levels of flaring, and whether market-based incentives (*i.e.,* royalty obligations) could improve capture in a more straightforward and efficient manner. Finally, the BLM is considering whether the need for a complex capture-percentage requirement could be obviated through other BLM efforts to facilitate pipeline development.

Since meeting this requirement requires operators to incur significant costs rather than require operators to institute new processes and adjust their plans for development to meet a capture-percentage requirement that may be rescinded or revised as a result of the BLM's review, the BLM is delaying for 1 year the compliance dates for § 3179.7's capture requirements. This final delay rule will allow the BLM sufficient time to more thoroughly explore through notice-and-comment rulemaking whether the capture percentage requirements should be rescinded or revised and would prevent operators from being unnecessarily burdened by regulatory requirements that are subject to change. This final delay rule revises the compliance dates in paragraphs (b), (b)(1) through (b)(4), and (c)(2)(i) through (vii) of § 3179.7 to begin January 17, 2019. Paragraphs (c), (c)(1), and the introductory text of (c)(2) remain the same as in the 2016 final rule and are repeated in this final delay rule text only for context.

43 CFR 3179.9—Measuring and Reporting Volumes of Gas Vented and Flared From Wells

Section 3179.9 requires operators to estimate (using estimation protocols) or measure (using a metering device) all flared and vented gas, whether royalty-bearing or royalty-free. This section further provides that specific requirements apply when the operator is flaring 50 Mcf or more of gas per day from a high-pressure flare stack or manifold, based on estimated volumes from the previous 12 months, or based on estimated volumes over the life of the flare, whichever is shorter. Under the 2016 final rule, § 3179.9(b) would have required the operator, as of January 17, 2018, if the volume threshold is met, to measure the volume of the flared gas, or calculate the volume of the flared gas based on the results of a regularly performed gas-to-oil ratio test, so as to allow the BLM to independently verify the volume, rate, and heating value of the flared gas.

In the 2016 RIA, the BLM estimated that this requirement would impose costs of about $4 million to $7 million per year (2016 RIA at 52).

The BLM is presently reviewing concerns raised by operators that the additional accuracy associated with the measurement and estimation required by § 3179.9(b) does not justify the burden it would place on operators and that the requirement is infeasible because current technology does not reliably measure low pressure, low volume, fluctuating gas flow. The BLM is considering whether it would make more sense to allow the BLM to require measurement or estimation on a case-by-case basis, rather than imposing a blanket requirement on all operators. In order to avoid immediate and potentially unnecessary compliance costs on the part of operators, this final delay rule delays the compliance date in § 3179.9 until January 17, 2019.

This final delay rule revises the compliance date in § 3179.9(b)(1). The rest of paragraph (b)(1) remains the same as in the 2016 final rule and is repeated in this final delay rule text only for context.

43 CFR 3179.10—Determinations Regarding Royalty-Free Flaring

Section 3179.10(a) provides that approvals to flare royalty free that were in effect as of January 17, 2017, will continue in effect until January 17, 2018. The purpose of this provision was to provide a transition period for operators who were operating under existing approvals for royalty-free flaring. Because the BLM's review of the 2016 final rule could result in rescission or substantial revision of the rule, the BLM believes that terminating pre-existing flaring approvals in January 2018 would impose an immediate cost, be premature and disruptive, and would introduce needless regulatory uncertainty for operators with existing flaring approvals. The BLM therefore extends the end of the transition period provided for in § 3179.10(a) to January 17, 2019.

This final delay rule also revises the date in paragraph (a) and replaces ''as of the effective date of this rule'' with ''as of January 17, 2017,'' which is the effective date of the 2016 final rule, for clarity. Aside from these two changes, this final delay rule does not otherwise revise paragraph (a), but the rest of the paragraph remains the same as in the 2016 final rule and is repeated in this final delay rule text only for context.

43 CFR 3179.101—Well Drilling

Section 3179.101(a) requires that gas reaching the surface as a normal part of drilling operations be used or disposed of in one of four ways: (1) Captured and sold; (2) Directed to a flare pit or flare stack; (3) Used in the operations on the lease, unit, or communitized area; or (4) Injected. Section 3179.101(a) also specifies that gas may not be vented, except under the circumstances specified in § 3179.6(b) or when it is technically infeasible to use or dispose of the gas in one of the ways specified above. Section 3179.101(b) states that gas lost as a result of a loss of well control will be classified as avoidably lost if the BLM determines that the loss of well control was due to operator negligence.

The BLM is currently reviewing concerns raised by operators that § 3179.101 is unnecessary in light of existing BLM requirements, infeasible in the situations where flares may be used on drilling wells because of insufficient gas to burn, and creates a risk to safety. The BLM has existing regulations that require the operator to flare gas during drilling operations, see Onshore Oil and Gas Order No. 2—Drilling Operations, Section III.C.7. The requirements state that ''All flare systems shall be designed to gather and burn all gas. . . . The flare system shall have an effective method for ignition. Where noncombustible gas is likely or expected to be vented, the system shall be provided supplemental fuel for ignition and to maintain a continuous flare.''

Because § 3179.101 includes the primary method of gas disposition, which is also required by Onshore Oil and Gas Order No. 2—Drilling Operations, Section III.C.7, the primary effect of § 3179.101, therefore, may be to impose a regulatory constraint on operators in exceptional circumstances where the operator must make a case-specific judgment about how to safely and effectively dispose of the gas.

Further, in addition to the existing requirements regulating well drilling operations, the available data suggest that potential gas losses during a well-drilling operation is very small. According to EPA's Greenhouse Gas Inventory, drilling a well generates only small amounts of uncontrolled gas (2016 RIA at 149 and 151). These data indicate either that operators are already operating in a manner consistent with § 3179.101 or that the amount of potential gas losses from these operations is very small.

The BLM is therefore suspending the effectiveness of § 3179.101 until January 17, 2019, while the BLM completes its review of § 3179.101 and decides whether to propose permanently revising or rescinding it through notice-and-comment rulemaking.

This final delay rule adds a new paragraph (c) making it clear that the

operator must comply with § 3179.101 beginning January 17, 2019. This action does not impact the operator's compliance with Onshore Oil and Gas Order No. 2—Drilling Operations, Section III.C.7.

43 CFR 3179.102—Well Completion and Related Operations

Section 3179.102 addresses gas that reaches the surface during well-completion, post-completion, and fluid-recovery operations after a well has been hydraulically fractured or refractured. It requires the gas to be used or disposed of in one of four ways: (1) Captured and sold; (2) Directed to a flare pit or stack, subject to a volumetric limitation in § 3179.103; (3) Used in the lease operations; or (4) Injected. Section 3179.102 specifies that gas may not be vented, except under the narrow circumstances specified in § 3179.6(b) or when it is technically infeasible to use or dispose of the gas in one of the four ways specified above. Section 3179.102(b) provides that an operator will be deemed to be in compliance with its gas capture and disposition requirements if the operator is in compliance with the requirements for control of gas from well completions established under Environmental Protection Agency (EPA) regulations 40 CFR part 60, subparts OOOO or OOOOa regulations, or if the well is not a ''well affected facility'' under those regulations.

The BLM is concerned that § 3179.102 imposes an immediate cost on operators and is currently reviewing it to determine whether it is necessary, in light of current operator practices and the analogous EPA regulations. Operators dispose of gas during well completions and related operations consistent with § 3179.102(a) either to comply with EPA or State regulations.

EPA regulations at 40 CFR part 60, subparts OOOO and OOOOa, address the disposition of gas from oil and gas well completions using hydraulic fracturing, which are the vast majority of well completions occurring on Federal and Indian lands. The BLM believes that over 90 percent of wells on Federal and Indian lands are completed using hydraulic fracturing. Therefore, most of the well completions and related operations that would otherwise be covered by § 3179.102 would actually be exempted under § 3179.102(b).

The EPA regulations also exempt from its coverage a small portion of well completions that, according to EPA's Greenhouse Gas Inventory, generate only small amounts of uncontrolled gas (2016 RIA at 149 and 151). These data indicate either that operators are already operating in a manner consistent with § 3179.102(a) or that the amount of potential gas losses from these operations is very small.

Considering the overlap with EPA regulations (40 CFR part 60, subparts OOOO and OOOOa), the primary effect of § 3179.102 may be to generate confusion about regulatory compliance during well-drilling and related operations. The BLM is therefore suspending the effectiveness of § 3179.102 until January 17, 2019, while the BLM completes its review of § 3179.102 and decides whether to permanently revise or rescind it through notice-and-comment rulemaking.

This final delay rule adds a new paragraph (e) making it clear that operators must comply with § 3179.102 beginning January 17, 2019.

43 CFR 3179.201—Equipment Requirements for Pneumatic Controllers

Section 3179.201 addresses pneumatic controllers that use natural gas produced from a Federal or Indian lease, or from a unit or communitized area that includes a Federal or Indian lease. Section 3179.201 applies to such controllers if the controllers: (1) Have a continuous bleed rate greater than 6 standard cubic feet per hour (scf/hour) (''high-bleed'' controllers); and (2) Are not covered by EPA regulations that prohibit the new use of high-bleed pneumatic controllers (40 CFR part 60, subparts OOOO or OOOOa), but would be subject to those regulations if the controllers were new, modified, or reconstructed sources. Section 3179.201(b) requires the applicable pneumatic controllers to be replaced with controllers (including, but not limited to, continuous or intermittent pneumatic controllers) having a bleed rate of no more than 6 scf/hour, subject to certain exceptions. Section 3179.201(d) requires that this replacement occur no later than January 17, 2018, or within 3 years from the effective date of the rule if the well or facility served by the controller has an estimated remaining productive life of 3 years or less.

In the 2016 RIA, the BLM estimated that this requirement would impose costs of about $2 million per year and generate cost savings from product recovery of $3 million to $4 million per year (2016 RIA at 56).

The BLM is concerned that § 3179.201 imposes an immediate cost on operators and is currently reviewing it to determine whether it should be revised or rescinded. The BLM is considering whether § 3179.201 is necessary in light of the analogous EPA regulations (40 CFR part 60, subparts OOOO or OOOOa) and the fact that operators are likely to adopt more efficient equipment in cases where it makes economic sense for them to do so. The BLM does not believe that operators should be required to make expensive equipment upgrades to comply with § 3179.201 until the BLM has had an opportunity to review its requirements and, if appropriate, revise them through notice-and-comment rulemaking. The BLM is therefore delaying the compliance date stated in § 3179.201 until January 17, 2019.

This final delay rule revises the first sentence of paragraph (d) by replacing ''no later than 1 year after the effective date of this section'' with ''by January 17, 2019.'' This final delay rule also replaces ''the effective date of this section'' with ''January 17, 2017'' the two times that it appears in the second sentence of paragraph (d). This final delay rule does not otherwise revise paragraph (d), but the rest of the paragraph remains the same as in the 2016 final rule and is repeated in the final delay rule text only for context.

43 CFR 3179.202—Requirements for Pneumatic Diaphragm Pumps

Section 3179.202 establishes requirements for operators with pneumatic diaphragm pumps that use natural gas produced from a Federal or Indian lease, or from a unit or communitized area that includes a Federal or Indian lease. It applies to such pumps if they are not covered under EPA regulations at 40 CFR part 60, subpart OOOOa, but would be subject to that subpart if they were a new, modified, or reconstructed source. For covered pneumatic pumps, § 3179.202 requires that the operator either replace the pump with a zero-emissions pump or route the pump exhaust to processing equipment for capture and sale. Alternatively, an operator may route the exhaust to a flare or low-pressure combustion device if the operator makes a determination (and notifies the BLM through a Sundry Notice) that replacing the pneumatic diaphragm pump with a zero-emissions pump or capturing the pump exhaust is not viable because: (1) A pneumatic pump is necessary to perform the function required; and (2) Capturing the exhaust is technically infeasible or unduly costly. If an operator makes this determination and has no flare or low-pressure combustor on-site, or routing to such a device would be technically infeasible, the operator is not required to route the exhaust to a flare or low-pressure combustion device. Under § 3179.202(h), an operator must replace its covered pneumatic diaphragm pump

or route the exhaust gas to capture or flare beginning no later than January 17, 2018.

In the 2016 RIA, the BLM estimated that this requirement would impose costs of about $4 million per year and generate cost savings from product recovery of $2 million to $3 million per year (2016 RIA at 61).

The BLM is concerned that § 3179.202 imposes an immediate cost on operators and is currently reviewing it to determine whether it should be rescinded or revised. Analogous EPA regulations apply to new, modified, and reconstructed sources, therefore limiting the applicability of § 3179.202. See 40 CFR part 60, subpart OOOOa. In addition, the BLM is concerned that requiring zero-emissions pumps may not conserve gas in some cases. The volume of royalty-free gas used to generate electricity to provide the power necessary to operate a zero-emission pump could exceed the volume of gas necessary to operate the pneumatic pump that the zero-emission pump would replace. The BLM does not believe that operators should be required to make expensive equipment upgrades to comply with § 3179.202 until the BLM has had an opportunity to review its requirements and, if appropriate, revise them through notice-and-comment rulemaking. The BLM is therefore delaying the compliance date stated in § 3179.202 until January 17, 2019.

This final delay rule revises paragraph (h) by replacing ''no later than 1 year after the effective date of this section'' in the first sentence with ''by January 17, 2019'' and also replaces ''the effective date of this section'' with ''January 17, 2017'' the two times that it appears later in the same sentence. This final delay rule does not otherwise revise paragraph (h); the rest of the paragraph remains the same as in the 2016 final rule and is repeated in the final delay rule text only for context.

43 CFR 3179.203—Storage Vessels

Section 3179.203 applies to crude oil, condensate, intermediate hydrocarbon liquid, or produced-water storage vessels that contain production from a Federal or Indian lease, or from a unit or communitized area that includes a Federal or Indian lease, and that are not subject to 40 CFR part 60, subparts OOOO or OOOOa, but would be if they were new, modified, or reconstructed sources. If such storage vessels have the potential for volatile organic compound (VOC) emissions equal to or greater than 6 tons per year (tpy), § 3179.203 requires operators to route all gas vapor from the vessels to a sales line. Alternatively, the operator may route the vapor to a combustion device if it determines that routing the vapor to a sales line is technically infeasible or unduly costly. The operator also may submit a Sundry Notice to the BLM that demonstrates that compliance with the above options would cause the operator to cease production and abandon significant recoverable oil reserves under the lease due to the cost of compliance. Pursuant to § 3179.203(c), operators must meet these requirements for covered storage vessels by January 17, 2018 (unless the operator will replace the storage vessel in order to comply, in which case it has a longer time to comply).

In the 2016 RIA, the BLM estimated that this requirement would impose costs of about $7 million to $8 million per year and generate cost savings from product recovery of up to $200,000 per year (2016 RIA at 74).

The BLM is concerned that § 3179.203 imposes an immediate cost on operators and is currently reviewing it to determine whether it should be rescinded or revised. The BLM is considering whether § 3179.203 is necessary in light of analogous EPA regulations (40 CFR part 60, subparts OOOO or OOOOa) and whether the costs associated with compliance are justified. The BLM does not believe that operators should be required to make expensive upgrades to their storage vessels in order to comply with § 3179.203 until the BLM has had an opportunity to review its requirements and, if appropriate, revise them through notice-and-comment rulemaking. The BLM is therefore delaying the January 17, 2018, compliance date in § 3179.203 until January 17, 2019.

This final delay rule revises the first sentence of paragraph (b) by replacing ''Within 60 days after the effective date of this section'' with ''Beginning January 17, 2019'' and by adding ''after January 17, 2019'' between the words ''vessel'' and ''the operator.'' This final delay rule also revises the introductory text of paragraph (c) by replacing ''no later than one year after the effective date of this section'' with ''by January 17, 2019'' and by changing ''or three years if'' to ''or by January 17, 2020, if '' to account for removing the reference to ''the effective date of this section.'' This final delay rule does not otherwise revise paragraphs (b) and (c), and the rest of these paragraphs remain the same as in the 2016 final rule and are repeated in this final delay rule text only for context.

43 CFR 3179.204—Downhole Well Maintenance and Liquids Unloading

Section 3179.204 establishes requirements for venting and flaring during downhole well maintenance and liquids unloading. It requires the operator to use practices for such operations that minimize vented gas and the need for well venting, unless the practices are necessary for safety. Section 3179.204 also requires that for wells equipped with a plunger lift system or an automated well-control system, the operator must optimize the operation of the system to minimize gas losses. Under § 3179.204, before an operator manually purges a well for the first time, the operator must document in a Sundry Notice that other methods for liquids unloading are technically infeasible or unduly costly. In addition, during any liquids unloading by manual well purging, the person conducting the well purging is required to be present on-site to minimize, to the maximum extent practicable, any venting to the atmosphere. This section also requires the operator to maintain records of the cause, date, time, duration and estimated volume of each venting event associated with manual well purging, and to make those records available to the BLM upon request. Additionally, operators are required to notify the BLM by Sundry Notice within 30 days after the following conditions are met: (1) The cumulative duration of manual well-purging events for a well exceeds 24 hours during any production month; or (2) The estimated volume of gas vented in the process of conducting liquids unloading by manual well purging for a well exceeds 75 Mcf during any production month.

In the 2016 RIA, the BLM estimated that these requirements would impose costs of about $6 million per year and generate cost savings from product recovery of about $5 million to $9 million per year (2016 RIA at 66). In addition, there would be estimated administrative burdens associated with these requirements of $323,000 per year for the industry and $37,000 per year for the BLM (2016 RIA at 98 and 101).

The BLM is concerned that § 3179.204 imposes immediate costs on operators and is currently reviewing it to determine whether it should be rescinded or revised. The BLM does not believe that operators should be burdened with the operational and reporting requirements imposed by § 3179.204 until the BLM has had an opportunity to review them and, if appropriate, revise them through notice-and-comment rulemaking. In addition, as part of this review, the BLM would

want to review how these data could be reported in a consistent manner among operators. The BLM is therefore suspending the effectiveness of § 3179.204 until January 17, 2019.

This final delay rule adds a new paragraph (i), making it clear that operators must comply with § 3179.204 beginning January 17, 2019.

43 CFR 3179.301—Operator Responsibility

Sections 3179.301 through 3179.305 establish leak detection, repair, and reporting requirements for: (1) Sites and equipment used to produce, process, treat, store, or measure natural gas from or allocable to a Federal or Indian lease, unit, or communitization agreement; and (2) Sites and equipment used to store, measure, or dispose of produced water on a Federal or Indian lease. Section 3179.302 prescribes the instruments and methods that may be used for leak detection. Section 3179.303 prescribes the frequency for inspections and § 3179.304 prescribes the time frames for repairing leaks found during inspections. Finally, § 3179.305 requires operators to maintain records of their LDAR activities and submit an annual report to the BLM. Pursuant to § 3179.301(f), operators must begin to comply with the LDAR requirements of §§ 3179.301 through 3179.305 before: (1) January 17, 2018, for sites in production prior to January 17, 2017; (2) 60 days after beginning production for sites that began production after January 17, 2017; and (3) 60 days after a site that was out of service is brought back into service and re-pressurized.

In the 2016 RIA, the BLM estimated that these requirements would impose costs of about $83 million to $84 million per year and generate cost savings from product recovery of about $12 million to $21 million per year (2016 RIA at 91). In addition, there would be estimated administrative burdens associated with these requirements of $3.9 million per year for the industry and over $1 million per year for the BLM (2016 RIA at 98 and 102).

The BLM is concerned that §§ 3179.301 through 3179.305 impose an immediate cost on operators and is currently reviewing them to determine whether they should be revised or rescinded. The analysis of the 2016 rule may have significantly overestimated the benefits of captured gas and therefore not justified the estimated costs. The BLM is also considering whether these requirements are necessary in light of comparable EPA (40 CFR part 60, subpart OOOOa.) and State LDAR regulations. The 2017 RIA includes a discussion of State regulations (2017 RIA at 17). The BLM is considering whether the reporting burdens imposed by these sections are justified and whether the substantial compliance costs could be mitigated by allowing for less frequent and/or non-instrument-based inspections or by exempting wells that have low potential to leak natural gas. The BLM does not believe that operators should be burdened with the significant compliance costs imposed by these sections until the BLM has had an opportunity to review them and, if appropriate, revise them through notice-and-comment rulemaking. The BLM is therefore delaying the effective dates for these sections until January 17, 2019, by revising § 3179.301(f).

This final delay rule revises paragraph (f)(1) by replacing ''Within one year of January 17, 2017 for sites that have begun production prior to January 17, 2017;'' with ''By January 17, 2019, for all existing sites.'' This final delay rule also revises paragraph (f)(2) by adding ''new'' between the words ''for'' and ''sites'' and by replacing the existing date with ''January 17, 2019.'' Finally, this final delay rule revises paragraph (f)(3) by adding ''an existing'' between the words ''when'' and ''site'' and by adding ''after January 17, 2019'' to the end of the sentence. This final delay rule does not otherwise revise paragraph (f), and the rest of the paragraph remains the same as in the 2016 final rule and is repeated in this final delay rule text only for context.

B. Summary of Estimated Economic Impacts

The BLM reviewed the final delay rule and conducted an RIA and Environmental Assessment (EA) that examine the impacts of the final delay rule's requirements. The following discussion is a summary of the final delay rule's economic impacts. The RIA and EA that we prepared have been posted in the docket for the final delay rule on the *Federal eRulemaking Portal: https://www.regulations.gov.* In the Searchbox, enter ''RIN 1004–AE54'' and click the ''Search'' button. Follow the instructions at this Web site.

The suspension or delay in the implementation of certain requirements in the 2016 final rule postpones the economic impacts estimated previously to the near-term future. That is to say, impacts that we previously estimated would occur in 2017 will now occur in 2018, impacts that we previously estimated would occur in 2018 will now occur in 2019, and so on. In the RIA for this final delay rule, we track this shift in impacts over the 10-year period following the delay. A 10-year period of analysis was also used in the 2016 RIA. Except for some notable changes, the 2017 RIA uses the impacts estimated and underlying assumptions used by the BLM for the 2016 RIA, published in November 2016. The BLM's final delay rule temporarily suspends or delays almost all of the requirements in the 2016 final rule that we estimated would pose a compliance burden to operators and generate benefits of gas savings or reductions in methane emissions.

Estimated Reductions in Compliance Costs (Excluding Cost Savings)

First, we examine the reductions in compliance costs excluding the savings that would have been realized from product recovery. This final delay rule temporarily suspends or delays almost all of the requirements in the 2016 final rule that we estimated would pose a compliance burden to operators. We estimate that suspending or delaying the targeted requirements of the 2016 final rule until January 17, 2019, will substantially reduce compliance costs during the period of the suspension or delay (2017 RIA at 29).

Impacts in Year 1:

- A delay in compliance costs of $114 million (using a 7 percent discount rate to annualize capital costs) or $110 million (using a 3 percent discount rate to annualize capital costs).

Impacts from 2017–2027:

- Total reduction in compliance costs ranging from $73 million to $91 million (net present value (NPV) using a 7 percent discount rate) or $40 million to $50 million (NPV using a 3 percent discount rate).

Estimated Reduction in Benefits

This final delay rule temporarily suspends or delays almost all of the requirements in the 2016 final rule that were estimated to generate benefits of gas savings or reductions in methane emissions. We estimate that this final delay rule will result in forgone benefits, since estimated cost savings that would have come from product recovery will be deferred and the emissions reductions will also be deferred (2017 RIA at 32).

Impacts in Year 1:

- A reduction in cost savings of $19 million.

Impacts from 2017–2027:

- Total reduction in cost savings of $36 million (NPV using a 7 percent discount rate) or $21 million (NPV using a 3 percent discount rate).

We estimate that this final delay rule will also result in additional methane and VOC emissions of 175,000 and

250,000 tons, respectively, in Year 1 (2017 RIA at 32).

These estimated emissions are measured as the change from the baseline environment, which is the 2016 final rule's requirements being implemented per the 2016 final rule schedule. Since the final delay rule delays the implementation of those requirements, the estimated benefits of the 2016 final rule will be forgone during the temporary suspension or delay.

The BLM used interim domestic values of the carbon dioxide and methane to value the forgone emissions reductions resulting from the delay (see the discussion of social cost of greenhouse gases in the 2017 RIA at Section 3.2 and Appendix).

Impact in Year 1:

- Forgone methane emissions reductions valued at $8 million (using interim domestic SC–CH_4 [2] based on a 7 percent discount rate) or $26 million (using interim domestic SC–CH_4 based on a 3 percent discount rate).

Impacts from 2017–2027:

- Forgone methane emissions reductions valued at $1.9 million (NPV [3] and interim domestic SC–CH_4 using a 7 percent discount rate); or
- Forgone methane emissions reductions valued at $300,000 (NPV and interim domestic SC–CH_4 using a 3 percent discount rate).

Estimated Net Benefits

This final delay rule is estimated to result in positive net benefits, meaning that the reduction of compliance costs would exceed the reduction in cost savings and the cost of emissions additions (2017 RIA at 36).

Impact in Year 1:

- Net benefits of $83—86 million (using interim domestic SC–CH_4 based on a 7 percent discount rate) or $64—68 million (using interim domestic SC–CH_4 based on a 3 percent discount rate).

Impacts from 2017–2027:

- Total net benefits ranging from $35—52 million (NPV and interim domestic SC–CH_4 using a 7 percent discount rate); or
- Total net benefits ranging from $19—29 million (NPV and interim domestic SC–CH_4 using a 3 percent discount rate).

Energy Systems

This final delay rule is expected to influence the production of natural gas, natural gas liquids, and crude oil from onshore Federal and Indian oil and gas leases, particularly in the short-term and on a regional basis. However, since the relative changes in production compared to global levels are expected to be small, we do not expect that this final delay rule will significantly impact the price, supply, or distribution of energy.

Noting that the assumptions in the 2016 RIA are under review and subject to change, we estimate the following incremental changes in production. Also note the representative share of the total U.S. production in 2015 for context (2017 RIA at 41).

Annual Impacts:

- A decrease in natural gas production of 9.0 billion cubic feet (Bcf) in Year 1 (0.03 percent of the total U.S. production).
- An increase in crude oil production of 91,000 barrels in Year 2 (0.003 percent of the total U.S. production). There is no estimated change in crude oil production in Year 1.

Royalty Impacts

Based on the assumptions in the 2016 RIA, which are currently under review, in the short-term the final 2017 delay rule is expected to decrease natural gas production from Federal and Indian leases, and likewise, is expected to reduce annual royalties to the Federal Government, tribal governments, States, and private landowners. From 2017–2027, however, we expect a small increase in total royalties, likely due to production slightly shifting into the future where commodity prices are expected to be higher.

Royalty payments are recurring income to Federal or tribal governments and costs to the operator or lessee. As such, they are transfer payments that do not affect the total resources available to society. An important but sometimes difficult problem in cost estimation is to distinguish between real costs and transfer payments. While transfers should not be included in the economic analysis estimates of the benefits and costs of a regulation, they may be important for describing the distributional effects of a regulation.

We estimate a reduction in royalties of $2.6 million in Year 1 (2017 RIA at 43). This amount represents about 0.2 percent of the total royalties received from oil and gas production on Federal lands in FY 2016. However, from 2017–2027, we estimate an increase in total royalties of $1.26 million (NPV using a 7 percent discount rate) or $380,000 (NPV using a 3 percent discount rate).

Consideration of Alternative Approaches

In developing this final delay rule, the BLM considered alternative timeframes for which it could suspend or delay the requirements (*e.g.,* 6 months and 2 years). Ultimately, the BLM decided on a suspension or delay for 1 year, which it believes to be the minimum length of time practicable within which to review the 2016 final rule and complete a notice-and-comment rulemaking to revise that regulation.

Employment Impacts

This final delay rule temporarily suspends or delays certain requirements of the BLM's 2016 final rule on waste prevention and is a temporary deregulatory action. As such, we estimate that it will result in a reduction of compliance costs for operators of oil and gas leases on Federal and Indian lands. Therefore, it is likely that the impact, if any, on the employment will be positive.

In the 2016 RIA, the BLM concluded that the requirements were not expected to impact the employment within the oil and gas extraction, drilling oil and gas wells, and support activities industries, in any material way. This determination was based on several reasons. First, the estimated incremental gas production represented only a small fraction of the U.S. natural gas production volumes. Second, the estimated compliance costs represented only a small fraction of the annual net incomes of companies likely to be impacted. Third, for those operations that would have been impacted to the extent that the compliance costs would force the operator to shut in production, the 2016 final rule had provisions that would exempt these operations from compliance. Based on these factors, the BLM determined that the 2016 final rule would not alter the investment or employment decisions of firms or significantly adversely impact employment. The RIA also noted that the 2016 final rule would require the one-time installation or replacement of equipment and the ongoing implementation of an LDAR program, both of which would require labor to comply.

As discussed more thoroughly above, the assumptions upon which the determination of the 2016 rule was based upon are under review. Based on the 2016 RIA, this final delay rule will not substantially alter the investment or employment decisions of firms for two reasons. First, the 2016 RIA determined that that rule would not substantially alter the investment or employment decisions of firms, and so therefore delaying the 2016 final rule would likewise not be expected to impact those decisions. We also recognize that while there might be a small positive impact

[2] Social cost of methane.

[3] Net present value.

on investment and employment due to the reduction in compliance burdens, the magnitude of the reductions are relatively small.

Small Business Impacts

The BLM reviewed the Small Business Administration (SBA) size standards for small businesses and the number of entities fitting those size standards as reported by the U.S. Census Bureau. We conclude that small entities represent the overwhelming majority of entities operating in the onshore crude oil and natural gas extraction industry and, therefore, this final delay rule will impact a significant number of small entities.

To examine the economic impact of the rule on small entities, the BLM performed a screening analysis on a sample of potentially affected small entities, comparing the reduction of compliance costs to entity profit margins.

The BLM identified up to 1,828 entities that operate on Federal and Indian leases and recognizes that the overwhelming majority of these entities are small business, as defined by the SBA. We estimated the potential reduction in compliance costs to be about $60,000 per entity during the initial year when the requirements would be suspended or delayed. This represents the average maximum amount by which the operators would be positively impacted by this final delay rule.

We used existing BLM information and research concerning firms that have recently completed Federal and Indian wells and the financial and employment information on a sample of these firms, as available in company annual report filings with the Securities and Exchange Commission (SEC). From the original list of companies, we identified 55 company filings. Of those companies, 33 were small businesses.

From data in the companies' 10–K filings to the SEC, the BLM was able to calculate the companies' profit margins for the years 2012, 2013, and 2014. We then calculated a profit margin figure for each company when subject to the average annual reduction in compliance costs associated with this final delay rule. For these 26 small companies, the estimated per-entity reduction in compliance costs will result in an average increase in profit margin of 0.17 percentage points (based on the 2014 company data) (2017 RIA at 46).

Impacts Associated With Oil and Gas Operations on Tribal Lands

This final delay rule applies to oil and gas operations on both Federal and Indian leases. In the 2017 RIA, the BLM estimates the impacts associated with operations on Indian leases, as well as royalty implications for tribal governments. We estimate these impacts by scaling down the total impacts by the share of oil wells on Indian lands and the share of gas wells on Indian lands. The BLM expects the impacts on Tribal Lands to be between 11 percent and 15 percent of those levels described in sections 4.1 to 4.4.4 of the 2017 RIA. Please reference the 2017 RIA at sections 4.1 to 4.4.5 for a full explanation of the estimated impacts.

C. Comments and Responses

The BLM has engaged in stakeholder outreach in the course of developing this 2017 final delay rule to the degree it believes is appropriate given that the final delay rule extends the compliance dates of the 2016 final rule, but does not change the policies of that rule. The BLM published a proposed rule on October 5, 2017 (82 FR 46458), and accepted public comments through November 6, 2017.

The BLM sent correspondence to tribal governments to solicit their views to inform the development of this 2017 final delay rule on October 16 and 17, 2017, and requested feedback and comment through the respective BLM State Office Directors. In addition, BLM State and Field Offices informed the tribes of the BLM delay rule notification letters via phone, and offered to conduct tribal consultation if the tribes chose to do so. More detailed information is found below in the subsection titled ''Consultation and Coordination with Indian Tribal Governments (Executive Order 13175 and Departmental Policy).''

The BLM received over 158,000 comments on the proposed rule, including approximately 750 unique comments, which are available for viewing on the *Federal eRulemaking Portal* (*http://www.regulations.gov*) In the Searchbox, enter ''RIN 1004–AE54'' and click the ''Search'' button. Follow the instructions at this Web site. The BLM has reviewed all public comments, and has made changes, as appropriate, to the final delay rule and supporting documents based on those comments and internal review. Those changes are described in detail below in this final delay rule. In addition, the ''comments and responses'' discussion in this final delay rule provides a summary of issues raised most frequently in public comments and the BLM's response. A more comprehensive account of public comments and detailed responses to these comments are available to the public in a supporting document in the docket for this rulemaking at the *Federal eRulemaking Portal* referenced above. The final delay rule reflects the very extensive input that the BLM gathered from the public comment process.

The comments revolved around several main issues, which are categorized as the following: (1) Industry impacts; (2) Royalty Provisions, (3) Legal authority; (4) Lost gas volumes; (5) Rule net benefits; (6) National impacts, including energy security; (7) Climate change; (8) Air quality and public health; (9) Rule process; and (10) Technical issues, including parts of the rule that were not delayed.

Industry Impacts

The BLM received numerous comments on the BLM's analysis of costs and benefits. Many comments addressed the cost to the operators of complying with the 2017 final delay rule. Some commenters stated that the long-term prevention of energy waste outweighs the additional burden that smaller companies may face from the cost of complying with the 2016 final rule, and others asserted that there is continued stability in the oil and gas industry and jobs despite promulgation of the 2016 final rule so that a delay was unnecessary. Another commenter saw compliance as a cost of doing business and another as a cost to access public lands, while another said they would take a reduction in royalties to pay for reductions in methane emissions. One commenter noted the broad negative impacts of the rule on public welfare through ''wasted gas, diminished royalties, and harmful impacts for public health and the environment.'' One commenter asserted a disparity between the alleged broad negative impacts of the proposed 2017 delay rule on public welfare through ''wasted gas, diminished royalties, and harmful impacts for public health and the environment'' with the BLM's own conclusion that the 2017 delay rule would not ''substantially alter the investment or employment decisions of firms.''

The BLM did not revise the proposed rule in response to these comments. Most of the comments on these cost/benefit issues asserted a policy preference for immediately implementing the rule but did not assert that the BLM had relied on improper data analysis. Operators have raised concerns regarding the cost, complexity, and other implications of the 2016 rule. Moreover, the 2016 final rule analysis is under review and the BLM is concerned that certain assumptions that justified the rule's costs may be unsupported. The BLM does not believe that operators

should be required to make expensive equipment upgrades to comply with the 2016 rule until it has had an opportunity to review the requirements and, if appropriate, revise them through notice-and-comment rulemaking.

Many commenters supported issuing the delay rule and stated that a final delay rule would avoid imposing immediate compliance costs for requirements that might be rescinded or significantly revised in the near future. The BLM agrees. This final rule will also allow the BLM to avoid expending agency resources on implementation of activities for potentially transitory requirements. The BLM acknowledges that some operators have upgraded their equipment in the interim, and delaying the 2016 rule does not preclude operators from upgrading their equipment voluntarily, but the BLM does not see the delay as penalizing operators who have adopted the 2016 final rule requirements early, as mentioned in one comment. The intent of the delay rule is to prevent the incurrence of compliance costs and potential unnecessary shutting in of wells while the aforementioned provisions are being reviewed due to the concerns raised in this rulemaking.

As mentioned above, the BLM shows in the 2017 RIA that the avoided costs of delaying the rule exceed the forgone benefits. Over the 11-year evaluation period (2017–2027), the BLM estimates total net benefits ranging from $35–52 million (NPV and interim social cost of methane using a 7 percent discount rate) or $19–29 million (NPV and interim domestic social cost of methane using a 3 percent discount rate) (2017 RIA at 1). Thus, the RIA for the 2017 final delay rule concludes that the benefits of the 2017 final delay rule (avoided compliance costs) exceed the costs (forgone savings and environmental improvements). In accordance with E.O. 13783, the BLM is committed to furthering the national interest by promoting ''clean and safe development of our Nation's vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.'' Thus, the policy set forth in E.O. 13783 is aimed at ensuring the ''clean'' and ''prudent'' (*i.e.,* not wasteful) development of energy resources. As the BLM reconsiders the 2016 final rule in accordance with E.O. 13783, it will continue to analyze the rule's costs and benefits.

Royalty Provisions

Several commenters stated that the 2016 final rule's gas capture provisions would be commercially valuable and economically beneficial to the government through additional royalties. The commenters argued that delaying the 2016 final rule would result in wasted gas and a reduction in the royalties flowing to the States, tribes, and Federal Government.

The BLM did not change its proposal in response to these comments. The BLM's analysis of the delay rule, which is based on potentially tenuous assumptions made in the 2016 final analysis, shows that it might forgo royalties in the short-term, but that there would be a negligible change from the baseline over the entire period of analysis. See Section 4.4 of the 2017 final delay rule RIA. As the BLM reconsiders the final 2016 rule in accordance with E.O. 13783, it will continue to assess impacts on royalty revenues.

Some commenters were concerned that the 2016 rule would impact oil and gas development on tribal reservations and royalties to tribes. Some tribes are located in known shale play areas and contain large amounts of undeveloped or underdeveloped areas. In particular, the commenters suggested that the 2016 final rule could delay drilling on or drive industry away from tribal lands, reducing income flowing to Indian mineral owners and tribal economies. The BLM agrees that this is an important issue and is assessing it in developing a proposal to revise or rescind the 2016 final rule. The BLM evaluated the royalty impacts of the delay rule on Indian lands and determined that these impacts were minimal (2017 RIA at 40). Following its initial review, the BLM is reviewing the 2016 final rule to develop an appropriate proposed revision of the 2016 final rule that is intended to align the 2016 final rule with section 1 of E.O. 13783. The BLM invites the commenters to provide comment on its proposal to revise the 2016 final rule, when that proposal is available.

The BLM received comments on other royalty-related issues. One commenter believes royalties should not be treated as transfer payments in the 2017 RIA. The BLM disagrees with the commenter. Based on widely-accepted economic principles and OMB Circular A–4, royalties are, by definition, transfer payments.

Legal Authority

Multiple commenters stated that the BLM lacks either implicit or explicit legal authority to suspend certain requirements of the 2016 final rule for the purpose of reconsidering them. They stated that the 2017 final delay rule is arbitrary and capricious under the Administrative Procedure Act (APA) section 706(2)(A), and the reasoning behind the rule is outside the scope of the Federal Land Policy and Management Act. Commenters stated that promulgation of the 2017 delay rule would put the BLM in violation of both the MLA and FLPMA. Commenters also asserted that, since the 2017 delay rule was proposed shortly after the U.S. District Court for the District of Wyoming denied industry petitioners a preliminary injunction to stay the 2016 final rule until the case was decided on the merits, the BLM is using rulemaking to mirror a judicial function.

The BLM has not modified the rule in light of these comments. The BLM has ample legal authority to modify or otherwise revise the existing regulation in response to substantive concerns regarding cost and feasibility under the authority granted by the MLA, the MLAAL, FOGRMA, FLPMA, the IMLA, the IMDA, and the Act of March 3, 1909. These statutes authorize the Secretary of the Interior to promulgate such rules and regulations as may be necessary to carry out the statutes' various purposes. (See, *e.g.,* 30 U.S.C. 189 (MLA); 30 U.S.C. 359 (MLAAL); 30 U.S.C. 1751(a) (FOGRMA); 43 U.S.C. 1740 (FLPMA); 25 U.S.C. 396d (IMLA); 25 U.S.C. 2107 (IMDA); 25 U.S.C. 396).

Moreover, neither the MLA nor FLPMA provide statutory ''mandates'' that the BLM maintain the regulatory provisions that are being suspended for a year in this final rule. Furthermore, the BLM is not acting arbitrarily and capriciously in promulgating today's final rule; the preamble, RIA, responses to comments, and other associated documents collectively and adequately explain the rationales and factual bases for each provision in the rule, the relevant factors that the BLM considered, and the reasons why the BLM did not consider certain other factors.

Commenters addressed the importance of government-to-government consultation and stated that, in contrast to the 2016 rule, the BLM only provided a few opportunities for tribes and individual mineral owners to consult about the 2017 delay rule.

The BLM engaged in stakeholder outreach in the course of developing this 2017 final delay rule, and believes its degree of outreach was appropriate given that the final delay rule extends the compliance dates of the 2016 final rule, but does not change the policies of that rule. The BLM sent correspondence to all tribal governments with major oil and gas interests, as well as individual Indian mineral owners that have

expressed to the BLM in the past that they want to be notified of such actions. Such correspondence solicited their views to inform the development of this 2017 final delay rule and requested feedback and comment through the respective BLM State Office Directors. Several tribal governments have provided feedback on today's action.

Commenters were also concerned about delaying the 2016 final rule, which they viewed as helping the Secretary meet his statutory trust responsibilities with respect to development of Indian oil and gas interests, because it ensured extraction that increased royalties rather than waste of resources.

The BLM believes that the 2017 final rule helps the Secretary fulfill his trust responsibility with respect to the development of Indian oil and gas interests. As detailed in the RIA accompanying today's action, although there is expected a short-term reduction in annual royalties to tribes (and other lessors) from the 1-year delay, overall the economic impact of this final delay rule is positive. The delay also provides the BLM an opportunity to reconsider and ensure appropriate compliance requirements are imposed on tribal lands, which may help to avoid having operators forego development of tribal lands due to burdensome and unnecessary compliance requirements.

Commenters stated that the 2017 delay rule would leave the oil and gas operations on Federal and Indian leases unregulated with respect to the activities governed by the provisions being suspended or delayed.

The BLM believes this is not the case. The development and production of oil and gas are regulated under a framework of Federal and State laws and regulations. Several Federal agencies implement Federal laws and requirements, while each State in which oil and gas is produced has one or more regulatory agencies that administer State laws and regulations. As discussed more thoroughly above, the requirements of the 2016 final rule that are not being suspended or delayed, various State laws and regulations, and EPA regulations will operate together to limit venting and flaring during the period of the 1-year suspension. See the 2017 final delay rule RIA for a summary of selected Federal and State regulations and policies that have the effect of limiting the waste of gas from production operations in the States where the production of oil and gas from Federal and Indian leases is most prevalent (2017 RIA at 17).

Lost Gas Volumes

Many commenters stated that the 2017 final delay rule will result in waste of natural gas through venting, flaring, and leaking of natural gas from oil and gas operators. The commenters stated that the valuable energy resources being wasted could otherwise be productively used, which would subsequently increase revenues for taxpayers in the form of royalty and tax collection. Some commenters also expressed concern that the rule impedes U.S. progress towards energy independence. The BLM acknowledges that delaying implementation of compliance requirements for certain provisions of the 2016 final rule could result in incremental flaring of gas during the 1-year interim period when compared to the baseline. However, over 11 years of implementation (2017–2027), the BLM expects an overall small increase in production (and subsequent royalties) when commodity prices are projected to be higher. In addition, the BLM found positive net benefits of the 2017 delay rule due to the reduction in compliance costs exceeding the foregone benefits of the 2016 rule. The BLM also notes that the assumptions of the final analysis of the 2016 rule are under review and may be revised.

Some commenters expressed concern about the uncertainty underlying the estimates of lost gas volumes in the final RIA. The BLM acknowledges that there is uncertainty regarding the quantity and value of gas that is vented or flared on Federal or tribal lands. The BLM reviewed data from the Office of Natural Resources Revenue (ONRR) and 2016 greenhouse gas (GHG) Inventory to develop estimates of the average volume of gas vented and flared. See the 2016 RIA for a complete discussion of the methodology and data used to estimate lost gas volumes (2016 RIA at 15).

Rule Net Benefits

Multiple commenters took issue with the approach the BLM used to calculate the forgone benefits of methane emissions reductions in terms of the social cost of methane in the 2017 delay rule analysis. In particular, commenters suggested that the RIA for the delay rule: (a) Should rely on estimates of the global value of the social cost of methane and not the ''domestic-only'' value and; (b) That a 7 percent discount rate is not justifiable for use in discounting these benefits and a 3 percent discount rate would be appropriate and consistent with OMB Circular A–4. Multiple commenters also suggested that the BLM continue to use the analysis conducted by the IWG in regard to these issues. Since publication of the 2016 RIA, several documents upon which the 2016 final rule RIA relied upon have been rescinded. In particular, Section 5 of E.O. 13783, issued by the President on March 28, 2017, disbanded the earlier IWG and withdrew the Technical Support Documents upon which the 2016 RIA relied for the valuation of changes in methane emissions. It further directed agencies to ensure that estimates of the social cost of greenhouse gases used in regulatory analyses ''are based on the best available science and economics'' and are consistent with the guidance contained in OMB Circular A–4, ''including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates'' (E.O. 13783, Section 5(c)). The social cost of methane (SC–CH4) estimates used for the 2017 final delay rule analysis are interim values for use in regulatory analyses while estimates of the impacts of climate change to the U.S. are being developed.

Multiple commenters cited specific issues regarding the use of 7 percent discount rate, stating that by applying a 7 percent discount rate, the BLM is ignoring the welfare of future generations of Americans. Commenters further suggested that the use of the 3 percent discount rate is consistent with OMB Circular A–4. The BLM disagrees. The analysis presented in the RIA for the 2017 final delay rule uses both a 3 percent and a 7 percent discount rate in the above analysis. The 7 percent rate is intended to represent the average before-tax rate of return to private capital in the U.S. economy. The 3 percent rate is intended to reflect the rate at which society discounts future consumption. The use of both discount rates is consistent with the guidance contained in OMB Circular A–4.

One commenter opposed the use of the social cost of methane to analyze this rulemaking given the uncertainty and the lack of accuracy surrounding these estimates, noting that its use goes against the need to produce an analysis that is ''based on the best available science and economics.'' The commenter requested that the BLM omit benefits related to the social cost of methane. Pursuant to E.O. 12866, and in an effort to provide full transparency to the public regarding the impacts of its actions, the BLM has estimated all of the significant costs and benefits of this 2017 final delay rule to the extent that data and available methodologies permit, consistent with the best science currently available. The SC–CH4 estimates presented here are interim

values for use in regulatory analyses until an improved estimate of the impacts of climate change to the U.S. can be developed.

Several commenters stated the BLM neglected to analyze the loss of public health and safety benefits generated by the implementation of the 2016 final rule, citing OMB Circular A–4 guidance as evidence. Commenters also stated that the BLM neglected to analyze the impacts of the proposed suspension on worker safety, which was one of the purposes of the 2016 final rule. Pursuant to E.O. 12866, and in an effort to provide full transparency to the public regarding the impacts of its actions, the BLM has estimated all of the significant costs and benefits of this 2017 final delay rule to the extent that data and available methodologies permit, consistent with the best science currently available. Commenters incorrectly stated that the BLM failed to analyze non-monetized impacts. The EA, which accompanies today's action, analyzes the No-Action and Proposed Action effects on climate change, air quality, noise and light impacts, wildlife resources (threatened and endangered species and critical habitat), and socioeconomics. The EA, where appropriate, incorporates by reference the 2016 final rule EA analysis. Circular A–4 recommends approaches the agencies may take in its NEPA documents, but it does not require them.

One commenter stated that the BLM's description of impacts for the 11-year period (2017–2027) of analysis in the RIA for the 2017 final delay rule is misleading, as the reduction in the estimated compliance costs is solely due to the delay in compliance. Another commenter stated that some operators have begun compliance before the 2017 proposed delay rule will be finalized, and therefore the net cost savings of deferral will be lower than those outlined in the 2017 proposed delay rule RIA. The BLM adjusted the language in the RIA to reflect the first comment. The BLM disagrees with the second comment. For this 2017 final delay rule, the BLM tracks the shift in impacts over the first 10 years of implementation (after the delay) and compares it against the baseline. The original period of analysis in the RIA prepared for the 2016 final rule was 10 years. We note that certain impacts, such as cost savings and royalty, are different when shifted to the future. The BLM also notes that the estimated impacts attributed to a suspension or delay may be imprecise for several reasons (See RIA section 3.4). Also, while compliance with the requirements suspended or delayed by this 2017 final delay rule will not be required until January 17, 2019, BLM anticipates that operators will start undertaking compliance activities in advance of the compliance date. Although the BLM is currently considering revisions to the 2016 final rule, it cannot definitively determine what form those revisions will take until it completes the notice-and-comment rulemaking process. Therefore, for the purposes of this analysis, the BLM assumes that the 2016 final rule will be fully implemented starting in January 2019 after the suspension period ends.

Some commenters called the decision to limit the analysis timespan to 10 years arbitrary and too short and expressed concerns that other aspects of the net benefit analysis, such as the definition of the baseline and the benefits of the delay rule, result in undercounting of forgone benefits. The comment specifically stated that the BLM counted beneficial effects in year 2027 as benefits of its proposed delay even though these benefits would have occurred under the 2016 rule as methane reductions would continue. The BLM disagrees. The 10-year timeframe was not arbitrarily chosen. The BLM originally used a 10-year period of analysis in the 2016 final rule to reflect the limited life of the equipment that the rule was requiring and that the additional installations would be covered by the overlapping EPA regulations (see 40 CFR part 60, subparts OOOO or OOOOa). When comparing the 2017 final delay rule impacts to the 2016 rule, it is necessary to look at the equivalent 10 year estimated lifespan of the equipment in addition to the 1-year delay. If, instead, the impacts of the delay rule were constrained to the 10-year span used in the 2016 rule, the rule would be undervalued. If companies are still incurring costs for the delay rule in year 2027, then it is appropriate to count the social benefits that result from those costs. The omission of baseline impacts in the final year of the delay rule analysis is a result of the EPA rule taking effect (see 40 CFR part 60, subparts OOOO or OOOOa). Ascribing emission reduction benefits from the EPA rule to the BLM's 2016 final rule would be inappropriate.

Multiple commenters stated in a joint comment letter that the BLM did not consider information indicating that the costs of the 2016 final rule are actually lower than estimated in the 2016 RIA or that the benefits are actually higher than estimated in the 2016 RIA. The BLM recognizes that, despite the status of the 2016 final rule, operators are taking and will continue to take voluntary action to reduce the waste of natural gas, especially when taking action is in their best financial interest. Relying solely on a voluntary approach may not achieve the same results in a primarily oil-producing area, for oil wells, for marginal oil wells, or for marginal gas wells. The BLM also recognizes that the experiences of ''major'' operators may not be the same as small operators.

Multiple commenters disagreed with an alternative net-benefit analysis presented in the 2017 proposed-delay-rule RIA that omits monetized estimates of forgone climate benefits. In response to this and other related comments, the BLM removed the referenced alternative in the Appendix to the RIA that omitted monetized benefits.

National Impacts, Including Energy Security

Commenters stated that while the BLM acknowledges that the delay rule is expected to reduce annual royalties to the Federal Government, tribal governments, States, and private landowners, it fails to address the impacts of reduced royalty revenues to State, local and tribal governments. Another commenter noted that suspension of the 2016 final rule could indirectly impact other industries like those in the outdoor recreation and tourism sectors. Pursuant to Executive Order 12866 and NEPA, and in an effort to provide full transparency to the public regarding the impacts of its actions, the BLM has presented all of the foreseeable impacts that this 2017 final delay rule would have, based on the final analysis of the 2016 rule and to the extent that data and available methodologies permit and consistent with the best science currently available. See Section 4.4.2 of the 2017 RIA for a discussion on royalty impacts. The BLM's EA (at section 4.2.3) discusses the impacts that the 2017 final delay rule would have on recreation.

One commenter stated that the 2016 final rule promotes domestic natural gas production, which in turn supports energy security, national security, and economic productivity. Additionally, commenters stated that the 2016 final rule allows for the creation of cutting-edge technologies and field jobs that would reduce waste and increase income. The 2017 final delay rule does not substantively change the 2016 final rule, it merely postpones implementation of the compliance requirements for certain provisions of the 2016 final rule for 1 year. These comments are therefore outside the scope of this rule.

Climate Change

Several commenters cited concerns over climate change in their opposition to the BLM's proposal to delay implementation of the 2016 final rule. The commenters stated that methane is a potent GHG that contributes to global warming and that oil and gas operators should not allow methane to escape into the atmosphere. The commenters stated that climate change has been linked to negative consequences, like more severe droughts and wildfires. The commenters argued that this rule is an example of the U.S. Government taking actions that cause climate change, and that methane pollution has increased from onshore Federal leases in recent years. The commenters argued that the need to reduce methane emissions is an urgent matter and cannot be delayed.

The BLM did not change its proposal in response to these comments. The BLM estimates that the 2017 final rule will result in additional methane emissions of 175,000 tons in Year 1, but no change from the baseline for the 11-year period following the delay. We also estimate additional VOC emissions of 250,000 tons in Year 1, but no change from the baseline for the 11-year period following the delay. See section 4.2 of the 2017 RIA for a full description of the estimated reduction in benefits. As the BLM develops a proposed revision of the 2016 final rule, it will continue to evaluate and address potential environmental impacts. The BLM notes that the 2017 final delay rule will only temporarily delay the 2016 final rule's requirements. In response to concerns that methane emissions may be higher than those disclosed, the BLM notes that, while there is uncertainty in estimating the volumes of gas vented or flared, it has estimated the impacts of this 2017 final delay rule in a manner that is consistent with statute and executive orders and based on the best available information.

Air Quality and Public Health

Many commenters stated that the 2016 final rule will reduce air pollution from oil and gas production, and that subsequently delaying the implementation of the 2016 final rule poses a public health challenge, particularly to the most vulnerable populations and communities, and impacts the environment. Commenters described that the implementation of the 2016 final rule not only results in the capture of methane, but also the capture of VOC emissions, such as benzene, a known carcinogen. The commenters stated that VOC releases degrade our ambient air quality, with long-term health impacts related to the exposure of low levels of VOC emissions. The BLM acknowledges that there will be a short-term increase in the amount of methane and VOCs emitted during the 1-year delay, relative to the baseline, but there will be essentially no increase over the 11-year evaluation period (See EA Section 4.2.1 and 4.2.2 and 2017 RIA Section 4.2). While the BLM did not monetize the forgone benefits from VOC emissions reductions, it notes that the impact is transitory. The BLM will analyze the costs and benefits, which may result from any changes it proposes, in an upcoming rulemaking, to the 2016 final rule in accordance with Executive Order 13783.

One commenter stated that methane release can trigger life-threatening asthma attacks, worsen respiratory conditions, and cause cancer, which disproportionately affects Hispanic communities. The comment cited the EPA as reporting that Hispanics are among those facing the greatest risk of exposure to air pollutants and are three times more likely to die from asthma than any other racial or ethnic group. The BLM notes that the 2017 final delay rule delays or suspends implementation of the compliance requirements for certain provisions of the 2016 final rule by 1 year and is not expected to materially affect methane emissions as compared to the baseline data analyzed in the 2017 final delay rule RIA. The BLM concluded that the 2016 final rule did not lead to any significant or adverse differential environmental justice impacts (see 2016 final EA section 4.2.7). As the BLM reconsiders the 2016 final rule, in accordance with Executive Order 13783, it will continue to analyze the rule's costs and benefits, including any potential environmental justice impacts.

Rule Process

Several commenters raised concerns about lack of sufficient public engagement throughout this rulemaking process. They asked the BLM to extend the 2017 delay rule comment period to 60 days and to hold one or more public hearings, stating that the 30-day comment period was inadequate given the fundamental, highly technical, and extremely controversial changes to the benefits estimates included in the 2017 proposed delay rule.

The BLM did not change its proposal in response to these comments. The BLM believes it provided adequate public engagement throughout the process through outreach to stakeholders and a 30-day comment period. Given the narrow scope of the proposal, short delay, and recent comments on the 2016 final rule, the BLM determined a 30-day comment period to be appropriate and public meetings to be unnecessary. The 2017 final delay rule merely suspends and delays regulatory provisions that were very recently the object of public comment procedures. The public was engaged throughout this rulemaking process. The BLM received over 158,000 comments, including approximately 750 unique comments. The BLM is not required to hold public meetings for this rulemaking process.

Commenters stated that, given the lengthy 2016 final rule rulemaking process, a 2-year delay is needed to avoid unnecessary compliance costs and creating regulatory uncertainty for industry. The BLM did not change this rule in response to these comments. To reduce uncertainty, the BLM limited this 2017 final delay rule to the minimum necessary to achieve revision to the 2016 final rule, which it determined to be 1 year. The BLM has already made significant progress in developing a proposed revision of the 2016 rule and the BLM therefore fully expects that the revision will be completed and finalized before January 17, 2019.

Commenters stated that the BLM and the Secretary predetermined the outcome of this rulemaking with statements made and documents filed in Federal court. The BLM disagrees. The BLM is conducting the rulemaking process for the delay rule in accordance with the APA, and the BLM will be revising, as appropriate, the 2016 rule in accordance with the APA. Public statements about the BLM's plan to reconsider the 2016 rule and its intentions behind the proposed delay rule do not amount to final decisions made prior to conducting NEPA.

Commenters stated that the 2017 delay rule is a significant action that warrants an environmental impact statement (EIS), instead of an EA. Commenters state that the EA erroneously includes the 2016 rule implementation in the baseline, failed to analyze the impacts of the proposed action in a meaningful way, and did not include a reasonable range of alternatives. The commenters also believe that the BLM should have published a draft Finding of No Significant Impact (FONSI) for public comment, and that the FONSI does not consider both the context and intensity of the 2017 delay rule, resulting in the failure to take a hard look at localized impacts.

The BLM did not change its proposal in response to these comments. Based

upon a review of the EA and the associated documents referenced in the EA, and considering the criteria for significance provided by the Council on Environmental Quality regulations implementing the NEPA and the comments submitted on the EA, the BLM determined and detailed in the FONSI that the Proposed Action (Alternative B in the EA) will not have a significant effect on the quality of the human environment, individually or cumulatively with other actions in the potentially affected areas. Therefore, an EIS is not required. For the detailed analysis of the criteria for significance, see the FONSI accompanying today's action. NEPA and its implementing regulations do not require a public review period for the FONSI.

The fact that the BLM chose to include the expected effects of the 2016 final rule in the ''baseline'' environment does not mean that the BLM's analysis of the environmental impacts of the proposed action was inadequate. In fact, the incorporation of the 2016 final rule into the baseline environment has exactly the opposite effect. Were the BLM not to include the not-yet effective requirements of the 2016 final rule in the baseline, then the BLM's analysis of the proposed suspension action relative to the baseline would necessarily find fewer (and possibly no) impacts, as the suspension action would essentially maintain the environmental status quo.

The EA analyzed Alternative A (No Action) and Alternative B (BLM Proposed Action), which are the reasonable alternatives that would meet the purpose and need of today's action. See Section 2 of the EA for a description of each alternative. Section 2.4 of the EA describes the alternatives considered, but eliminated from further analysis. The 2017 RIA analyzed the impacts for a 6-month and 2-year delay, but they were both found to be not technically or financially feasible, therefore they were not carried forward for analysis.

Commenters stated that the 2017 delay rule is a dramatic substantive change from the 2016 final rule, and that the BLM did not follow proper procedures to make the substantive revision to the 2016 final rule prescribed in *FCC* v. *Fox Television Stations, Inc.* 556 U.S. 502, 514–16 (2009). The BLM disagrees with the commenters' characterization of the legal standard for amending regulations. As stated above, the BLM has a reasoned explanation for reconsidering the 2016 final rule and delaying implementation of certain provisions of the 2016 rule.

Commenters stated the BLM failed to meets it review/consultation requirements under the Endangered Species Act (ESA) and the National Historic Preservation Act (NHPA). The BLM disagrees. The BLM has met its review and consultation requirements for both the ESA and NHPA. As stated in section 4.1 of the EA, the BLM informally consulted with the FWS and the FWS concurred with the BLM's determination that the 2017 delay rule may affect, but is not likely to adversely affect, listed species or their associated designated critical habitat. This rulemaking is not a ''Federal undertaking'' for which the NHPA requires an analysis of effects on historic property. See 54 U.S.C. 306108 and 300320.

Technical Issues

Commenters supported the inclusion of the following provisions of the 2016 final rule in the 2017 delay rule: Section 3162.3, because the requirement is duplicative, conflicting, and/or unnecessary given existing state requirements; Section 3179.6, but the commenter provided no explanation; Section 3179.7, because it is unnecessarily complex and the gas capture percentage requirements could be obviated through other BLM efforts to facilitate pipeline development; Section 3179.9 because the requirement on operators to estimate (using estimation protocols) or measure (using a metering device) all flared and vented gas will impose significant costs; Section 3179.101, because the BLM has failed to consider the technical feasibility of the requirements; Section 3179.102, because it is technically infeasible and duplicative of EPA regulations; Section 3179.204, but the commenter provided no explanation; and Sections 3179.301–305 because the BLM overestimated the benefits and underestimated costs.

Other commenters asserted that the following provisions should not be included in the delay rule: Section 3179.102, because the provision would not require any action from most operators and therefore imposes no burden; section 3179.7, because the 2016 RIA found that the direct quantified benefits to operators that would result from capturing gas that would otherwise have been wasted outweighed the costs of the capture targets in the first 2 years that those targets apply; section 3179.10, because the delay rule provides no information on the effect of such an extension, and specifically, how much royalty revenue would be lost; sections 3179.101 and 3179.102, because the 2017 RIA does not estimate any capital costs to operators associated with these provisions; section 3179.201, because the BLM repeats the 2016 RIA findings that the cost savings to operators from compliance with the pneumatic controller requirements would substantially exceed the costs of compliance so its motives are unclear; section 3179.204, because the BLM's proposal repeats the 2016 RIA findings that the burden on the operators would be small or nonexistent; and section 3179.202 because the BLM's justification for suspension is inaccurate when describing analogous EPA regulations.

The BLM did not revise its proposal in response to these comments. This final delay rule temporarily suspends or delays almost all of the requirements in the 2016 final rule that the BLM estimated would pose a compliance burden to operators and are being reconsidered due to the cost, complexity, and other implications. The BLM has tailored the final delay rule to target the requirements of the 2016 rule for which immediate regulatory relief is particularly justified. The 2017 final delay rule does not suspend or delay the requirements in subpart 3178 related to the royalty-free use of natural gas, but the only estimated compliance costs associated with those requirements are for minor and rarely occurring administrative burdens. In addition, for the most part, the 2017 final delay rule suspends or delays the administrative burdens associated with subpart 3179. Only four of the 24 information collection activities remain, and the burdens associated with these remaining items are not substantial. See the section-by-section analysis for the BLM's specific justification for delay with regard to each provision.

One commenter stated that the 2017 RIA incorrectly assumes that suspension of the 2016 final rule will result in a return to NTL–4A. The BLM disagrees. The 2017 final rule RIA does not state nor imply an assumption that the suspension of the 2016 final rule will result in a return to NTL–4A. Several States have published regulations and policies that have the effect of limiting the waste of gas from production operations in the States where the production of oil and gas from Federal and Indian leases is most prevalent. See the 2017 RIA at 17 for a summary of these State regulations.

One commenter disagrees with the BLM's description of the requirements at 43 CFR 3179.9 as ''imposing a blanket requirement on all operators.'' The commenter notes that the 2016 final rule differentiates between flares of different volumes by establishing the threshold. The commenter's criticism of terminology does not alter the BLM's underlying point that the requirement

applies to all operators, each of whom has the duty to estimate volumes and measure the volumes if the threshold is met. Thus, the BLM disagrees with the commenter's assertion that the measurement requirements of 43 CFR 3179.9 cannot be characterized as a ''blanket'' requirement. The BLM believes that a 1-year suspension of 43 CFR 3179.9 is justified as the requirements impose immediate costs and the BLM is considering revising or rescinding the requirements of 43 CFR 3179.9. Also, the commenter refers to meters being inexpensive to install, but does not take into account all the other equipment that would be required under the 2016 final rule. See the 2016 RIA at 2 for an estimate of total costs for the 2016 final rule.

Commenters state that the reference to analogous EPA regulations as the reason for reconsidering requirements at 43 CFR 3179.201 and 43 CFR 3179.203 is inaccurate because the EPA and 2016 final rules regulate different operations. The BLM disagrees. Although 43 CFR 3179.201 and 3179.203 were designed to avoid imposing requirements that conflict with EPA's requirements, this does not mean that overlap with EPA regulations is not important to the BLM's reconsideration of the regulatory necessity of §§ 3179.201 and 3179.203. Because EPA's regulations apply to new, modified, and reconstructed pneumatic controllers and storage vessels, EPA's existing regulations will address the losses of gas from these sources as pneumatic controllers and storage vessels are installed, modified, or replaced over time and become subject to EPA's regulations. In addition, the BLM will reconsider, in an upcoming rulemaking, whether the volumes of gas that would be captured for sale under §§ 3179.201 and 3179.203 actually justify the compliance costs associated with those provisions.

III. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) will review all significant rules.

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

This final delay rule temporarily suspends or delays portions of the BLM's 2016 final rule while the BLM reviews those requirements. We have developed this final delay rule in a manner consistent with the requirements in Executive Order 12866 and Executive Order 13563.

After reviewing the requirements of the final delay rule, the OMB has determined that the final delay rule is not an economically significant action according to the criteria of Executive Order 12866. The BLM reviewed the requirements of this final delay rule and determined that it will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. For more detailed information, see the RIA prepared for this final delay rule. The RIA has been posted in the docket for the final rule on the *Federal eRulemaking Portal: https://www.regulations.gov.* In the Searchbox, enter ''RIN 1004–AE54'' and click the ''Search'' button. Follow the instructions at this Web site.

Regulatory Flexibility Act

This final delay rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The RFA generally requires that Federal agencies prepare a regulatory flexibility analysis for rules subject to the notice-and-comment rulemaking requirements under the APA (5 U.S.C. 500 *et seq.*), if the rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. *See* 5 U.S.C. 601–612. Congress enacted the RFA to ensure that government regulations do not unnecessarily or disproportionately burden small entities. Small entities include small businesses, small governmental jurisdictions, and small not-for-profit enterprises.

The BLM reviewed the Small Business Administration (SBA) size standards for small businesses and the number of entities fitting those size standards as reported by the U.S. Census Bureau in the Economic Census. The BLM concludes that the vast majority of entities operating in the relevant sectors are small businesses as defined by the SBA. As such, this final delay rule will likely affect a substantial number of small entities.

However, the BLM believes that this final delay rule will not have a significant economic impact on a substantial number of small entities. Although the rule will affect a substantial number of small entities, the BLM does not believe that these effects will be economically significant. This final delay rule temporarily suspends or delays certain requirements placed on operators by the 2016 final rule. Operators will not have to undertake the associated compliance activities, either operational or administrative, that are outlined in the 2016 final rule until January 17, 2019, except to the extent the activities are required by State or tribal law, or by other pre-existing BLM regulations. The screening analysis conducted by the BLM estimates that the average reduction in compliance costs associated with this final delay rule will be a small fraction of a percent of the profit margin for small companies, which is not a large enough impact to be considered significant.

Small Business Regulatory Enforcement Fairness Act

This final delay rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This final delay rule:

(a) Will not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This final delay rule will not impose an unfunded mandate on State, local, or tribal governments, or the private sector of $100 million or more per year. The final delay rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. This final delay rule contains no requirements that apply to State, local, or tribal governments. It temporarily suspends or delays requirements that otherwise apply to the private sector. A statement containing the information required by the Unfunded Mandates Reform Act

(UMRA) (2 U.S.C. 1531 *et seq.*) is not required for this final delay rule. This final delay rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments, because it contains no requirements that apply to such governments, nor does it impose obligations upon them.

Governmental Actions and Interference With Constitutionally Protected Property Right—Takings (Executive Order 12630)

This final delay rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required. This final delay rule temporarily suspends or delays many of the requirements placed on operators by the 2016 final rule. Operators will not have to undertake the associated compliance activities, either operational or administrative, that are outlined in the 2016 final rule until January 17, 2019. All such operations are subject to lease terms, which expressly require that subsequent lease activities must be conducted in compliance with subsequently adopted Federal laws and regulations. This final delay rule conforms to the terms of those leases and applicable statutes and, as such, the rule is not a government action capable of interfering with constitutionally protected property rights. Therefore, the BLM has determined that this final delay rule will not cause a taking of private property or require further discussion of takings implications under Executive Order 12630.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this final delay rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism impact statement is not required.

This final delay rule will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the levels of government. It will not apply to States or local governments or State or local governmental entities. The rule will affect the relationship between operators, lessees, and the BLM, but it does not directly impact the States. Therefore, in accordance with Executive Order 13132, the BLM has determined that this final delay rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Civil Justice Reform (Executive Order 12988)

This final delay rule complies with the requirements of Executive Order 12988. More specifically, this final delay rule meets the criteria of section 3(a), which requires agencies to review all regulations to eliminate errors and ambiguity and to write all regulations to minimize litigation. This final delay rule also meets the criteria of section 3(b)(2), which requires agencies to write all regulations in clear language with clear legal standards.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175 and Departmental Policy)

The Department strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this final delay rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have identified direct effects on federally recognized Indian tribes that will result from this final delay rule. Under this final delay rule, oil and gas operations on tribal and allotted lands will not be subject to many of the requirements placed on operators by the 2016 final rule until January 17, 2019.

The BLM has conducted an appropriate degree of tribal outreach in the course of developing this final delay rule given that the rule extends the compliance dates of the 2016 final rule, but does not change the policies of that rule. On October 16 and 17, 2017, the BLM sent out 264 rule notification letters with an enclosure to tribes and tribal organizations with oil and gas interests in Alaska (27), Arizona (38), California (5), Colorado (3), District of Columbia (1), Eastern States (2), Idaho (2), Montana/Dakotas (36), New Mexico/Oklahoma/Texas (139), Nevada (1), Utah (7), and Wyoming (3). The BLM then sent 16 follow-up letters to tribes that the letters were returned with the mark ''Return to Sender'' or, during consultation, BLM was informed that the tribes had not received letters.

The BLM State Directors, as delegated, personally contacted some of the tribes by phone with significant oil and gas interests, including six tribes in Colorado, two tribes in Wyoming, five tribes in the Montanas/Dakotas and two tribes in Arizona.

Through *regulations.gov*, the BLM heard from the Ojo Encino Chapter of the Navajo Nation, the Mandan, Hidatsa, and Arakara Nation of the Fort Berthold Reservation, the Muscogee (Creek) Nation, the Navajo Nation, Counselor Chapter House, the Fort Berthold Protectors of Water and Earth, the Turtle Mountain Band of Chippewa Indians, Southwest Native Cultures, and the Thloppthlocco Tribal Town Tribal Historic Preservation Office.

The tribes raised several issues, including: Insufficient consultation; loss of royalties from not implementing the 2016 rule; the DOI Secretary, but not the BLM, has a right to regulate Indian land; and, the environmental effects to the Native populations. The tribal comments were summarized and responded to in the supplemental comments and response document and are also referenced above in the ''Comments and Responses'' section of this 2017 final delay rule.

Paperwork Reduction Act

1. Overview

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3521) provides that 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 control number. 44 U.S.C. 3512. Collections of information include requests and requirements that an individual, partnership, or corporation obtain information, and report it to a Federal agency. See 44 U.S.C. 3502(3); 5 CFR 1320.3(c) and (k).

OMB has approved the 24 information collection activities in the 2016 final rule and has assigned control number 1004–0211 to those activities. In the Notice of Action approving the 24 information collection activities in the 2016 final rule, OMB announced that the control number will expire on January 31, 2018. The Notice of Action also included terms of clearance.

The BLM requests the extension of control number 1004–0021 until January 31, 2019. The BLM also requests revisions to the burden estimates as described below.

The information collection activities in this final delay rule are described below along with estimates of the annual burdens. Included in the burden estimates are the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each component of the proposed information collection.

2. Summary of Information Collection Activities

Title: Waste Prevention, Production Subject to Royalties, and Resource

Conservation (43 CFR parts 3160 and 3170). Form 3160–5, Sundry Notices and Reports on Wells. OMB Control Number: 1004–0211.

Forms: Form 3160–3, Application for Permit to Drill or Re-enter; and Form 3160–5, Sundry Notices and Reports on Wells.

Description of Respondents: Holders of Federal and Indian (except Osage Tribe) oil and gas leases, those who belong to Federally approved units or communitized areas, and those who are parties to oil and gas agreements under the Indian Mineral Development Act, 25 U.S.C. 2101–2108.

Respondents' Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Abstract: The BLM requests the extension of control number 1004–0021 until January 31, 2019. The BLM requests no changes to the control number except this extension.

Estimated Number of Responses: 64,200.

Estimated Total Annual Burden Hours: 90,170.

Estimated Total Non-Hour Cost: None.

3. Information Collection Request

The BLM requests extension of OMB control number 1004–0211 until January 31, 2019. This extension would continue OMB's approval of the following information collection activities, with the revised burden estimates described below.

Plan To Minimize Waste of Natural Gas (43 CFR 3162.3–1)

The 2016 final rule added a new provision to 43 CFR 3162.3–1 that requires a plan to minimize waste of natural gas when submitting an Application for Permit to Drill or Re-enter (APD) for a development oil well. This information is in addition to the APD information that the BLM already collects under OMB Control Number 1004–0137. The required elements of the waste minimization plan are listed at paragraphs (j)(1) through (j)(7).

The BLM is revising the estimated burdens to operators. The BLM recently included the following annual burden estimates for APDs in a notice announcing its intention to seek renewal of control number 1004–0137, Onshore Oil and gas Operations and Production (expires January 31, 2018): 3,000 responses, 8 hours per response, and 24,000 total hours. 82 FR 42832, R 42833 (Sept. 12, 2017). The BLM will increase the estimated annual number of responses for waste minimization plans from 2,000 to 3,000, to match the estimates for APDs in control number 1004–0137, and will increase the total burden hours for APDs from 16,000 to 24,000.

Request for Approval for Royalty-Free Uses On-Lease or Off-Lease (43 CFR 3178.5, 3178.7, 3178.8, and 3178.9)

Section 3178.5 requires submission of a Sundry Notice (Form 3160–5) to request prior written BLM approval for use of gas royalty-free for the following operations and production purposes on the lease, unit or communitized area:

- Using oil or gas that an operator removes from the pipeline at a location downstream of the facility measurement point (FMP);
- Removal of gas initially from a lease, unit PA, or communitized area for treatment or processing because of particular physical characteristics of the gas, prior to use on the lease, unit PA or communitized area; and
- Any other type of use of produced oil or gas for operations and production purposes pursuant to § 3178.3 that is not identified in § 3178.4. Section 3178.7 requires submission of a Sundry Notice (Form 3160–5) to request prior written BLM approval for off-lease royalty-free uses in the following circumstances:
- The equipment or facility in which the operation is conducted is located off the lease, unit, or communitized area for engineering, economic, resource-protection, or physical-accessibility reasons; and
- The operations are conducted upstream of the FMP. Section 3178.8 requires that an operator measure or estimate the volume of royalty-free gas used in operations upstream of the FMP. In general, the operator is free to choose whether to measure or estimate, with the exception that the operator must in all cases measure the following volumes:
- Royalty-free gas removed downstream of the FMP and used pursuant to §§ 3178.4 through 3178.7; and
- Royalty-free oil used pursuant to §§ 3178.4 through 3178.7.

If oil is used on the lease, unit or communitized area, it is most likely to be removed from a storage tank on the lease, unit or communitized area. Thus, this regulation also requires the operator to document the removal of the oil from the tank or pipeline.

Section 3178.8(e) requires that operators use best available information to estimate gas volumes, where estimation is allowed. For both oil and gas, the operator must report the volumes measured or estimated, as applicable, under ONRR reporting requirements. As revisions to Onshore Oil and Gas Orders No. 4 and 5 have now been finalized as 43 CFR subparts 3174 and 3175, respectively, the final delay rule text now references § 3173.12, as well as §§ 3178.4 through 3178.7 to clarify that royalty-free use must adhere to the provisions in those sections.

Section 3178.9 requires the following additional information in a request for prior approval of royalty-free use under § 3178.5, or for prior approval of off-lease royalty-free use under § 3178.7:

- A complete description of the operation to be conducted, including the location of all facilities and equipment involved in the operation and the location of the FMP;
- The volume of oil or gas that the operator expects will be used in the operation and the method of measuring or estimating that volume;
- If the volume expected to be used will be estimated, the basis for the estimate (*e.g.,* equipment manufacturer's published consumption or usage rates); and
- The proposed disposition of the oil or gas used (*e.g.,* whether gas used would be consumed as fuel, vented through use of a gas-activated pneumatic controller, returned to the reservoir, or disposed by some other method).

Request for Approval of Alternative Capture Requirement (43 CFR 3179.8)

Section 3179.8 applies only to leases issued before the effective date of the 2016 final rule and to operators choosing to comply with the capture requirement in § 3179.7 on a lease-by-lease, unit-by-unit, or communitized area-by-communitized area basis. The regulation provides that operators who meet those parameters may seek BLM approval of a capture percentage other than that which is applicable under 43 CFR 3179.7. The operator must submit a Sundry Notice (Form 3160–5) that includes the following information:

- The name, number, and location of each of the operator's wells, and the number of the lease, unit, or communitized area with which it is associated; and
- The oil and gas production levels of each of the operator's wells on the lease, unit, or communitized area for the most recent production month for which information is available and the volumes being vented and flared from each well. In addition, the request must include map(s) showing:
- The entire lease, unit, or communitized area, and the surrounding lands to a distance and on a scale that shows the field in which the well is or will be located (if applicable),

and all pipelines that could transport the gas from the well;

• All of the operator's producing oil and gas wells, which are producing from Federal or Indian leases, (both on Federal or Indian leases and on other properties) within the map area;

• Identification of all of the operator's wells within the lease from which gas is flared or vented, and the location and distance of the nearest gas pipeline(s) to each such well, with an identification of those pipelines that are or could be available for connection and use; and

• Identification of all of the operator's wells within the lease from which gas is captured;

The following information is also required:

• Data that show pipeline capacity and the operator's projections of the cost associated with installation and operation of gas capture infrastructure, to the extent that the operator is able to obtain this information, as well as cost projections for alternative methods of transportation that do not require pipelines; and

• Projected costs of and the combined stream of revenues from both gas and oil production, including: (1) The operator's projections of gas prices, gas production volumes, gas quality (*i.e.,* heating value and H_2S content), revenues derived from gas production, and royalty payments on gas production over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less; and (2) The operator's projections of oil prices, oil production volumes, costs, revenues, and royalty payments from the operator's oil and gas operations within the lease over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less.

Notification of Choice To Comply on County- or State-Wide Basis (43 CFR 3179.7(c)(3)(ii))

Section 3179.7 requires operators flaring gas from development oil wells to capture a specified percentage of the operator's adjusted volume of gas produced over the relevant area. The ''relevant area'' is each of the operator's leases, units, or communitized areas, unless the operator chooses to comply on a county- or State-wide basis and the operator notifies the BLM of its choice by Sundry Notice (Form 3160–5) by January 1 of the relevant year.

Request for Exemption From Well Completion Requirements (43 CFR 3179.102(c) and (d))

Section 3179.102 lists several requirements pertaining to gas that reaches the surface during well completion and related operations. An operator may seek an exemption from these requirements by submitting a Sundry Notice (Form 3160–5) that includes the following information:

(1) The name, number, and location of each of the operator's wells, and the number of the lease, unit, or communitized area with which it is associated;

(2) The oil and gas production levels of each of the operator's wells on the lease, unit or communitized area for the most recent production month for which information is available;

(3) Data that show the costs of compliance; and

(4) Projected costs of and the combined stream of revenues from both gas and oil production, including: the operator's projections of oil and gas prices, production volumes, quality (*i.e.,* heating value and H_2S content), revenues derived from production, and royalty payments on production over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less.

The rule also provides that an operator that is in compliance with the EPA regulations for well completions under 40 CFR part 60, subpart OOOO or subpart OOOOa is deemed in compliance with the requirements of this section. As a practical matter, all hydraulically fractured or refractured wells are now subject to the EPA requirements, so the BLM does not believe that the requirements of this section would have any independent effect, or that any operator would request an exemption from the requirements of this section, as long as the EPA requirements remain in effect. For this reason, the BLM is not estimating any PRA burdens for § 3179.102.

Request for Extension of Royalty-Free Flaring During Initial Production Testing (43 CFR 3179.103)

Section 3179.103 allows gas to be flared royalty-free during initial production testing. The regulation lists specific volume and time limits for such testing. An operator may seek an extension of those limits on royalty-free flaring by submitting a Sundry Notice (Form 3160–5) to the BLM.

Request for Extension of Royalty-Free Flaring During Subsequent Well Testing (43 CFR 3179.104)

Section 3179.104 allows gas to be flared royalty-free for no more than 24 hours during well tests subsequent to the initial production test. The operator may seek authorization to flare royalty-free for a longer period by submitting a Sundry Notice (Form 3160–5) to the BLM.

Reporting of Venting or Flaring (43 CFR 3179.105)

Section 3179.105 allows an operator to flare gas royalty-free during a temporary, short-term, infrequent, and unavoidable emergency. Venting gas is permissible if flaring is not feasible during an emergency. The regulation defines limited circumstances that constitute an emergency, and other circumstances that do not constitute an emergency. The operator must estimate and report to the BLM on a Sundry Notice (Form 3160–5) volumes flared or vented in circumstances that, as provided by 43 CFR 3179.105, do not constitute emergencies for the purposes of royalty assessment:

(1) More than 3 failures of the same component within a single piece of equipment within any 365-day period;

(2) The operator's failure to install appropriate equipment of a sufficient capacity to accommodate the production conditions;

(3) Failure to limit production when the production rate exceeds the capacity of the related equipment, pipeline, or gas plant, or exceeds sales contract volumes of oil or gas;

(4) Scheduled maintenance;

(5) A situation caused by operator negligence; or

(6) A situation on a lease, unit, or communitized area that has already experienced three or more emergencies within the past 30 days, unless the BLM determines that the occurrence of more than three emergencies within the 30 day period could not have been anticipated and was beyond the operator's control.

Pneumatic Controllers—Introduction

Section 3179.201 pertains to any pneumatic controller that: (1) Is not subject to EPA regulations at 40 CFR 60.5360 through 60.5390, but would be subject to those regulations if it were a new or modified source; and (2) Has a continuous bleed rate greater than 6 scf per hour. Section 3179.201(b) requires operators to replace each high-bleed pneumatic controller with a controller with a bleed rate lower than 6 scf per hour, with the following exceptions: (1) The pneumatic controller exhaust is routed to processing equipment; (2) The pneumatic controller exhaust was and continues to be routed to a flare device or low pressure combustor; (3) The pneumatic controller exhaust is routed to processing equipment; or (4) The operator notifies the BLM through a Sundry Notice and demonstrates, and the BLM agrees, that such would impose

such costs as to cause the operator to cease production and abandon significant recoverable oil reserves under the lease.

Notification of Functional Needs for a Pneumatic Controller (43 CFR 3179.201(b)(1)–(3))

An operator may invoke one of the first three exceptions described above by notifying the BLM through a Sundry Notice (Form 3160–5) that use of the pneumatic controller is required based on functional needs that may include, but are not limited to, response time, safety, and positive actuation, and the Sundry Notice (Form 3160–5) describes those functional needs.

Showing That Cost of Compliance Would Cause Cessation of Production and Abandonment of Oil Reserves (Pneumatic Controller) (43 CFR 3179.201(b)(4) and 3179.201(c))

An operator may invoke the fourth exception described above by demonstrating to the BLM through a Sundry Notice (Form 3160–5), and by obtaining the BLM's agreement, that replacement of a pneumatic controller would impose such costs as to cause the operator to cease production and abandon significant recoverable oil reserves under the lease. The Sundry Notice (Form 3160–5) must include the following information:

(1) The name, number, and location of each of the operator's wells, and the number of the lease, unit, or communitized area with which it is associated;

(2) The oil and gas production levels of each of the operator's wells on the lease, unit or communitized area for the most recent production month for which information is available;

(3) Data that show the costs of compliance;

(4) Projected costs of and the combined stream of revenues from both gas and oil production, including: The operator's projections of gas prices, gas production volumes, gas quality (*i.e.,* heating value and H_2S content), revenues derived from gas production, and royalty payments on gas production over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less; and the operator's projections of oil prices, oil production volumes, costs, revenues, and royalty payments from the operator's oil and gas operations within the lease over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less.

Showing in Support of Replacement of Pneumatic Controller Within 3 Years (43 CFR 3179.201(d))

The operator may replace a high-bleed pneumatic controller if the operator notifies the BLM through a Sundry Notice (Form 3160–5) that the well or facility that the pneumatic controller serves has an estimated remaining productive life of 3 years or less.

Pneumatic Diaphragm Pumps—Introduction

With some exceptions, § 3179.202 pertains to any pneumatic diaphragm pump that: (1) Uses natural gas produced from a Federal or Indian lease, or from a unit or communitized area that includes a Federal or Indian lease; and (2) Is not subject to EPA regulations at 40 CFR 60.5360 through 60.5390, but would be subject to those regulations if it were a new or modified source. This regulation generally requires replacement of such a pump with a zero-emissions pump or routing of the pump's exhaust gas to processing equipment for capture and sale.

This requirement does not apply to pneumatic diaphragm pumps that do not vent exhaust gas to the atmosphere. In addition, this requirement does not apply if the operator submits a Sundry Notice to the BLM documenting that the pump(s) operated on less than 90 individual days in the prior calendar year.

Showing That a Pneumatic Diaphragm Pump Was Operated on Fewer Than 90 Individual Days in the Prior Calendar Year (43 CFR 3179.202(b)(2))

A pneumatic diaphragm pump is not subject to section 3179.202 if the operator documents in a Sundry Notice (Form 3160–5) that the pump was operated fewer than 90 days in the prior calendar year.

Notification of Functional Needs for a Pneumatic Diaphragm Pump (43 CFR 3179.202(d))

In lieu of replacing a pneumatic diaphragm pump or routing the pump exhaust gas to processing equipment, an operator may submit a Sundry Notice (Form 3160–5) to the BLM showing that replacing the pump with a zero emissions pump is not viable because a pneumatic pump is necessary to perform the function required, and that routing the pump exhaust gas to processing equipment for capture and sale is technically infeasible or unduly costly.

Showing That Cost of Compliance Would Cause Cessation of Production and Abandonment of Oil Reserves (Pneumatic Diaphragm Pump) (43 CFR 3179.202(f) and (g))

An operator may seek an exemption from the replacement requirement by submitting a Sundry Notice (Form 3160–5) to the BLM that provides an economic analysis that demonstrates that compliance with these requirements would impose such costs as to cause the operator to cease production and abandon significant recoverable oil reserves under the lease. The Sundry Notice (Form 3160–5) must include the following information:

(1) Well information that must include: (i) The name, number, and location of each well, and the number of the lease, unit, or communitized area with which it is associated; and (ii) The oil and gas production levels of each of the operator's wells on the lease, unit or communitized area for the most recent production month for which information is available;

(2) Data that show the costs of compliance with paragraphs (c) through (e) of § 3179.202; and

(3) The operator's estimate of the costs and revenues of the combined stream of revenues from both the gas and oil components, including: (i) The operator's projections of gas prices, gas production volumes, gas quality (*i.e.,* heating value and H_2S content), revenues derived from gas production, and royalty payments on gas production over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less; and (ii) the operator's projections of oil prices, oil production volumes, costs, revenues, and royalty payments from the operator's oil and gas operations within the lease over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less.

Showing in Support of Replacement of Pneumatic Diaphragm Pump Within 3 Years (43 CFR 3179.202(h))

The operator may replace a pneumatic diaphragm pump if the operator notifies the BLM through a Sundry Notice (Form 3160–5) that the well or facility that the pneumatic controller serves has an estimated remaining productive life of 3 years or less.

Storage Vessels (43 CFR 3179.203(c) and (d))

A storage vessel is subject to 43 CFR 3179.203(c) if the vessel: (1) Contains production from a Federal or Indian lease, or from a unit or communitized area that includes a Federal or Indian

lease; and (2) Is not subject to any of the requirements of EPA regulations at 40 CFR part 60, subpart OOOO, but would be subject to that subpart if it were a new or modified source.

The operator must determine, record, and make available to the BLM upon request, whether the storage vessel has the potential for VOC emissions equal to or greater than 6 tpy based on the maximum average daily throughput for a 30-day period of production. The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, State, local or tribal authority that limit the VOC emissions to less than 6 tpy.

If a storage vessel has the potential for VOC emissions equal to or greater than 6 tpy, the operator must replace the storage vessel at issue in order to comply with the requirements of this section, and the operator must

(1) Route all tank vapor gas from the storage vessel to a sales line;

(2) If the operator determines that compliance with paragraph (c)(1) of this section is technically infeasible or unduly costly, route all tank vapor gas from the storage vessel to a device or method that ensures continuous combustion of the tank vapor gas; or

(3) Submit an economic analysis to the BLM through a Sundry Notice (Form 3160–5) that demonstrates, and the BLM agrees, based on the information identified in paragraph (d) of this section, that compliance with paragraph (c)(2) of this section would impose such costs as to cause the operator to cease production and abandon significant recoverable oil reserves under the lease.

To support the demonstration described above, the operator must submit a Sundry Notice (Form 3160–5) that includes the following information:

(1) The name, number, and location of each well, and the number of the lease, unit, or communitized area with which it is associated;

(2) The oil and gas production levels of each of the operator's wells on the lease, unit or communitized area for the most recent production month for which information is available;

(3) Data that show the costs of compliance with paragraph (c)(1) or (c)(2) of this section on the lease; and

(4) The operator must consider the costs and revenues of the combined stream of revenues from both the gas and oil components, including: The operator's projections of oil and gas prices, production volumes, quality (*i.e.,* heating value and H_2S content), revenues derived from production, and royalty payments on production over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less.

Downhole Well Maintenance and Liquids Unloading—Documentation and Reporting (43 CFR 3179.204(c) and (e))

The operator must minimize vented gas and the need for well venting associated with downhole well maintenance and liquids unloading, consistent with safe operations. Before the operator manually purges a well for liquids unloading for the first time after the effective date of this section, the operator must consider other methods for liquids unloading and determine that they are technically infeasible or unduly costly. The operator must provide information supporting that determination as part of a Sundry Notice (Form 3160–5). This requirement applies to each well the operator operates.

For any liquids unloading by manual well purging, the operator must:

(1) Ensure that the person conducting the well purging remains present on-site throughout the event to minimize to the maximum extent practicable any venting to the atmosphere;

(2) Record the cause, date, time, duration, and estimated volume of each venting event; and

(3) Maintain the records for the period required under § 3162.4–1 and make them available to the BLM, upon request.

Downhole Well Maintenance and Liquids Unloading—Notification of Excessive Duration or Volume (43 CFR 3179.204(f))

The operator must notify the BLM by Sundry Notice (Form 3160–5), within 30 calendar days, if:

(1) The cumulative duration of manual well purging events for a well exceeds 24 hours during any production month; or

(2) The estimated volume of gas vented in liquids unloading by manual well purging operations for a well exceeds 75 Mcf during any production month.

Leak Detection—Compliance With EPA Regulations (43 CFR 3179.301(j))

Sections 3179.301 through 3179.305 include information collection activities pertaining to the detection and repair of gas leaks during production operations. These regulations require operators to inspect all equipment covered under § 3179.301(a) for gas leaks.

Section 3179.301(j) allows an operator to satisfy the requirements of §§ 3179.301 through 3179.305 for some or all of the equipment or facilities on a given lease by notifying the BLM in a Sundry Notice (Form 3160–5) that the operator is complying with EPA requirements established pursuant to 40 CFR part 60 with respect to such equipment or facilities.

Leak Detection—Request To Use an Alternative Monitoring Device and Protocol (43 CFR 3179.302(c))

Section 3179.302 specifies the instruments and methods that an operator may use to detect leaks. Section 3179.302(d) allows the BLM to approve an alternative monitoring device and associated inspection protocol if the BLM finds that the alternative would achieve equal or greater reduction of gas lost through leaks compared with the approach specified in § 3179.302(a)(1) when used according to § 3179.303(a).

Any person may request approval of an alternative monitoring device and protocol by submitting a Sundry Notice (Form 3160–5) to the BLM that includes the following information: (1) Specifications of the proposed monitoring device, including a detection limit capable of supporting the desired function; (2) The proposed monitoring protocol using the proposed monitoring device, including how results will be recorded; (3) Records and data from laboratory and field testing, including but not limited to performance testing; (4) A demonstration that the proposed monitoring device and protocol will achieve equal or greater reduction of gas lost through leaks compared with the approach specified in the regulations; (5) Tracking and documentation procedures; and (6) Proposed limitations on the types of sites or other conditions on deploying the device and the protocol to achieve the demonstrated results.

Leak Detection—Operator Request To Use an Alternative Leak Detection Program (43 CFR 3179.303(b))

Section 3179.303(b) allows an operator to submit a Sundry Notice (Form 3160–5) requesting authorization to detect gas leaks using an alternative instrument-based leak detection program, different from the specified requirement to inspect each site semi-annually using an approved monitoring device.

To obtain approval for an alternative leak detection program, the operator must submit a Sundry Notice (Form 3160–5) that includes the following information:

(1) A detailed description of the alternative leak detection program,

including how it will use one or more of the instruments specified in or approved under § 3179.302(a) and an identification of the specific instruments, methods and/or practices that would substitute for specific elements of the approach specified in §§ 3179.302(a) and 3179.303(a);

(2) The proposed monitoring protocol;

(3) Records and data from laboratory and field testing, including, but not limited to, performance testing, to the extent relevant;

(4) A demonstration that the proposed alternative leak detection program will achieve equal or greater reduction of gas lost through leaks compared to compliance with the requirements specified in §§ 3179.302(a) and 3179.303(a);

(5) A detailed description of how the operator will track and document its procedures, leaks found, and leaks repaired; and

(6) Proposed limitations on types of sites or other conditions on deployment of the alternative leak detection program.

Leak Detection—Operator Request for Exemption Allowing Use of an Alternative Leak-Detection Program That Does Not Meet Specified Criteria (43 CFR 3179.303(d))

An operator may seek authorization for an alternative leak detection program that does not achieve equal or greater reduction of gas lost through leaks compared to the required approach, if the operator demonstrates that compliance with the leak-detection regulations (including the option for an alternative program under 43 CFR 3179.303(b)) would impose such costs as to cause the operator to cease production and abandon significant recoverable oil or gas reserves under the lease. The BLM may approve an alternative leak detection program that does not achieve equal or greater reduction of gas lost through leaks, but is as effective as possible consistent with not causing the operator to cease production and abandon significant recoverable oil or gas reserves under the lease.

To obtain approval for an alternative program under this provision, the operator must submit a Sundry Notice (Form 3160–5) that includes the following information:

(1) The name, number, and location of each well, and the number of the lease, unit, or communitized area with which it is associated;

(2) The oil and gas production levels of each of the operator's wells on the lease, unit or communitized area for the most recent production month for which information is available;

(3) Data that show the costs of compliance on the lease with the requirements of §§ 3179.301 through 305 and with an alternative leak detection program that meets the requirements of § 3179.303(b);

(4) The operator must consider the costs and revenues of the combined stream of revenues from both the gas and oil components and provide the operator's projections of oil and gas prices, production volumes, quality (*i.e.,* heating value and H_2S content), revenues derived from production, and royalty payments on production over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less;

(5) The information required to obtain approval of an alternative program under § 3179.303(b), except that the estimated volume of gas that will be lost through leaks under the alternative program must be compared to the volume of gas lost under the required program, but does not have to be shown to be at least equivalent.

Leak Detection—Notification of Delay in Repairing Leaks (43 CFR 3179.304(b))

Section 3179.304(a) requires an operator to repair any leak no later than 30 calendar days after discovery of the leak, unless there is good cause for delay in repair. If there is good cause for a delay beyond 30 calendar days, § 3179.304(b) requires the operator to submit a Sundry Notice (Form 3160–5) notifying the BLM of the cause.

Leak Detection—Inspection Recordkeeping and Reporting (43 CFR 3179.305)

Section 3179.305 requires operators to maintain the following records and make them available to the BLM upon request: (1) For each inspection required under § 3179.303, documentation of the date of the inspection and the site where the inspection was conducted; (2) The monitoring method(s) used to determine the presence of leaks; (3) A list of leak components on which leaks were found; (4) The date each leak was repaired; and (5) The date and result of the follow-up inspection(s) required under § 3179.304. By March 31 of each calendar year, the operator must provide to the BLM an annual summary report on the previous year's inspection activities that includes: (1) The number of sites inspected; (2) The total number of leaks identified, categorized by the type of component; (3) The total number of leaks repaired; (4) The total number of leaks that were not repaired as of December 31 of the previous calendar year due to good cause and an estimated date of repair for each leak; and (5) A certification by a responsible officer that the information in the report is true and accurate.

Leak Detection—Annual Reporting of Inspections (43 CFR 3179.305(b))

By March 31 of each calendar year, the operator must provide to the BLM an annual summary report on the previous year's inspection activities that includes:

(1) The number of sites inspected;

(2) The total number of leaks identified, categorized by the type of component;

(3) The total number of leaks repaired;

(4) The total number leaks that were not repaired as of December 31 of the previous calendar year due to good cause and an estimated date of repair for each leak; and

(5) A certification by a responsible officer that the information in the report is true and accurate to the best of the officer's knowledge.

4. Burden Estimates

The following table details the annual estimated hour burdens on operators for the information activities described above. The table thus estimates the hour burdens which will not be incurred in the 1-year period from January 17, 2018, to January 17, 2019.

Type of response	Number of responses	Hours per response	Total hours (column B × column C)
A.	B.	C.	D.
Plan to Minimize Waste of Natural Gas, 43 CFR 3162.3–1, Form 3160–3	3,000	8	24,000
Request for Approval for Royalty-Free Uses On-Lease or Off-Lease, 43 CFR 3178.5, 3178.7, 3178.8, and 3178.9, Form 3160–5	50	4	200
Notification of Choice to Comply on County- or State-wide Basis, 43 CFR 3179.7(c)(3)(iii)	200	1	200
Request for Approval of Alternative Capture Requirement, 43 CFR 3179.8(b), Form 3160–5	50	16	800

Type of response A.	Number of responses B.	Hours per response C.	Total hours (column B × column C) D.
Request for Exemption from Well Completion Requirements, 43 CFR 3179.102(c) and (d), Form 3160–5	0	0	0
Request for Extension of Royalty-Free Flaring During Initial Production Testing, 43 CFR 3179.103, Form 3160–5	500	2	1,000
Request for Extension of Royalty-Free Flaring During Subsequent Well Testing, 43 CFR 3179.104, Form 3160–5	5	2	10
Reporting of Venting or Flaring, 43 CFR 3179.105, Form 3160–5	250	2	500
Notification of Functional Needs for a Pneumatic Controller, 43 CFR 3179.201(b)(1)–(3), Form 3160–5	10	2	20
Showing that Cost of Compliance Would Cause Cessation of Production and Abandonment of Oil Reserves, 43 CFR 3179.201(b)(4) and 3179.201(c) (Pneumatic Controller), Form 3160–5	50	4	200
Showing in Support of Replacement of Pneumatic Controller within 3 Years, 43 CFR 3179.201(d), Form 3160–5	100	1	100
Showing that a Pneumatic Diaphragm Pump was Operated on Fewer than 90 Individual Days in the Prior Calendar Year, 43 CFR 3179.202(b)(2), Form 3160–5	100	1	100
Notification of Functional Needs for a Pneumatic Diaphragm Pump, 43 CFR 3179.202(d), Form 3160–5	150	1	150
Showing that Cost of Compliance Would Cause Cessation of Production and Abandonment of Oil Reserves (Pneumatic Diaphragm Pump), 43 CFR 3179.202(f) and (g), Form 3160–5	10	4	40
Showing in Support of Replacement of Pneumatic Diaphragm Pump within 3 Years, 43 CFR 3179.202(h), Form 3160–5	100	1	100
Storage Vessels, 43 CFR 3179.203(c), Form 3160–5	50	4	200
Downhole Well Maintenance and Liquids Unloading Documentation and Reporting, 43 CFR 3179.204(c) and (e), Form 3160–5	5,000	1	5,000
Downhole Well Maintenance and Liquids Unloading—Notification of Excessive Duration or Volume, 43 CFR 3179.204(f), Form 3160–5	250	1	250
Leak Detection Compliance with EPA Regulations, 43 CFR 3179.301(j), Form 3160–5	50	4	200
Leak Detection Request to Use an Alternative Monitoring Device and Protocol, 43 CFR 3179.302(c), Form 3160–5	5	40	200
Leak Detection Operator Request to Use an Alternative Leak Detection Program, 43 CFR 3179.303(b), Form 3160–5	20	40	800
Leak Detection Operator Request for Exemption Allowing Use of an Alternative Leak-Detection Program that Does Not Meet Specified 43 CFR 3179.303(d), Form 3160–5	150	20	3,000
Leak Detection Notification of Delay in Repairing Leaks, 43 CFR 3179.304(a), Form 3160–5	100	1	100
Leak Detection Inspection Recordkeeping and Reporting, 43 CFR 3179.305	52,000	.25	13,000
Leak Detection Annual Reporting of Inspections, 43 CFR 3179.305(b), Form 3160–5	2,000	20	40,000
Totals	64,200		90,170

National Environmental Policy Act

The BLM prepared an environmental assessment (EA) to determine whether this final delay rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). The BLM has determined that this final delay rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under NEPA is not required because the BLM reached a FONSI.

The EA and FONSI have been placed in the file for the BLM's Administrative Record for the rule. The EA and FONSI have also been posted in the docket for the rule on the *Federal eRulemaking Portal: https://www.regulations.gov.* In the Searchbox, enter ''RIN 1004–AE54'' and click the ''Search'' button. Follow the instructions at this Web site.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

This final delay rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

Section 4(b) of Executive Order 13211 defines a ''significant energy action'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of rulemaking, and notices of rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) Is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) That is designated by the Administrator of (OIRA) as a significant energy action.''

This final delay rule temporarily suspends or delays certain requirements in the 2016 final rule and reduces compliance costs in the short-term. The BLM determined that the 2016 final rule will not impact the supply, distribution, or use of energy and so the suspension or delay of many of the 2016 final rule's requirements until January 17, 2019, will likewise not have an impact on the supply, distribution, or use of energy. As such, we do not consider this final delay rule to be a ''significant energy action'' as defined in Executive Order 13211.

Authors

The principal authors of this final delay rule are: James Tichenor and Erica Pionke of the BLM Washington Office; Adam Stern of the DOI's Office of Policy and Analysis; assisted by Faith Bremner, Jean Sonneman, and Charles Yudson of the BLM's Division of Regulatory Affairs and by the

Department of the Interior's Office of the Solicitor.

List of Subjects

43 CFR Part 3160

Administrative practice and procedure; Government contracts; Indians—lands; Mineral royalties; Oil and gas exploration; Penalties; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3170

Administrative practice and procedure; Flaring; Government contracts; Incorporation by reference; Indians—lands; Mineral royalties; Immediate assessments; Oil and gas exploration; Oil and gas measurement; Public lands—mineral resources; Reporting and recordkeeping requirements; Royalty-free use; Venting.

Dated: December 4, 2017.

Katharine S. MacGregor,

Deputy Assistant Secretary—Land and Minerals Management, Exercising the Authority of the Assistant Secretary—Land and Minerals Management.

43 CFR Chapter II

For the reasons set out in the preamble, the Bureau of Land Management amends 43 CFR parts 3160 and 3170 as follows:

PART 3160—ONSHORE OIL AND GAS OPERATIONS

■ 1. The authority citation for part 3160 continues to read as follows:

Authority: 25 U.S.C. 396d and 2107; 30 U.S.C. 189, 306, 359, and 1751; and 43 U.S.C. 1732(b), 1733, and 1740.

■ 2. Amend § 3162.3–1 by revising paragraph (j) introductory text to read as follows:

§ 3162.3–1 Drilling applications and plans.

* * * * *

(j) Beginning January 17, 2019, when submitting an Application for Permit to Drill an oil well, the operator must also submit a plan to minimize waste of natural gas from that well. The waste minimization plan must accompany, but would not be part of, the Application for Permit to Drill. The waste minimization plan must set forth a strategy for how the operator will comply with the requirements of 43 CFR subpart 3179 regarding control of waste from venting and flaring, and must explain how the operator plans to capture associated gas upon the start of oil production, or as soon thereafter as reasonably possible, including an explanation of why any delay in capture of the associated gas would be required. Failure to submit a complete and adequate waste minimization plan is grounds for denying or disapproving an Application for Permit to Drill. The waste minimization plan must include the following information:

* * * * *

PART 3170—ONSHORE OIL AND GAS PRODUCTION

■ 3. The authority citation for part 3170 continues to read as follows:

Authority: 25 U.S.C. 396d and 2107; 30 U.S.C. 189, 306, 359, and 1751; and 43 U.S.C. 1732(b), 1733, and 1740.

■ 4. Amend § 3179.7 by revising paragraphs (b) and (c) to read as follows:

§ 3179.7 Gas capture requirement.

* * * * *

(b) Beginning January 17, 2019, the operator's capture percentage must equal:

(1) For each month during the period from January 17, 2019, to December 31, 2020: 85 percent;

(2) For each month during the period from January 1, 2021, to December 31, 2023: 90 percent;

(3) For each month during the period from January 1, 2024, to December 31, 2026: 95 percent; and

(4) For each month beginning January 1, 2027: 98 percent.

(c) The term ''capture percentage'' in this section means the ''total volume of gas captured'' over the ''relevant area'' divided by the ''adjusted total volume of gas produced'' over the ''relevant area.''

(1) The term ''total volume of gas captured'' in this section means: For each month, the volume of gas sold from all of the operator's development oil wells in the relevant area plus the volume of gas from such wells used on lease, unit, or communitized area in the relevant area.

(2) The term ''adjusted total volume of gas produced'' in this section means: The total volume of gas captured over the month *plus* the total volume of gas flared over the month from high pressure flares from all of the operator's development oil wells that are in production in the relevant area, *minus:*

(i) For each month from January 17, 2019, to December 31, 2019: 5,400 Mcf times the total number of development oil wells ''in production'' in the relevant area;

(ii) For each month from January 1, 2020, to December 31, 2020: 3,600 Mcf times the total number of development oil wells in production in the relevant area;

(iii) For each month from January 1, 2021, to December 31, 2021: 1,800 Mcf times the total number of development oil wells in production in the relevant area; and

(iv) For each month from January 1, 2022, to December 31, 2022: 1,500 Mcf times the total number of development oil wells in production in the relevant area;

(v) For each month from January 1, 2023, to December 31, 2024: 1,200 Mcf times the total number of development oil wells in production in the relevant area;

(vi) For each month from January 1, 2025, to December 31, 2025: 900 Mcf times the total number of development oil wells in production in the relevant area; and

(vii) For each month after January 1, 2026: 750 Mcf times the total number of development.

* * * * *

■ 5. Amend § 3179.9 by revising paragraph (b)(1) introductory text to read as follows:

§ 3179.9 Measuring and reporting volumes of gas vented and flared.

* * * * *

(b) * * *

(1) If the operator estimates that the volume of gas flared from a high pressure flare stack or manifold equals or exceeds an average of 50 Mcf per day for the life of the flare, or the previous 12 months, whichever is shorter, then, beginning January 17, 2019, the operator must either:

* * * * *

■ 6. Amend § 3179.10 by revising paragraph (a) to read as follows:

§ 3179.10 Determinations regarding royalty-free flaring.

(a) Approvals to flare royalty free, which are in effect as of January 17, 2017, will continue in effect until January 17, 2019.

* * * * *

■ 7. Amend § 3179.101 by adding paragraph (c) to read as follows:

§ 3179.101 Well drilling.

* * * * *

(c) The operator must comply with this section beginning January 17, 2019.

■ 8. Amend § 3179.102 by adding paragraph (e) to read as follows:

§ 3179.102 Well completion and related operations.

* * * * *

(e) The operator must comply with this section beginning January 17, 2019.

■ 9. Amend § 3179.201 by revising paragraph (d) to read as follows:

§ 3179.201 Equipment requirements for pneumatic controllers.

* * * * *

(d) The operator must replace the pneumatic controller(s) by January 17, 2019, as required under paragraph (b) of this section. If, however, the well or facility that the pneumatic controller serves has an estimated remaining productive life of 3 years or less from January 17, 2017, then the operator may notify the BLM through a Sundry Notice and replace the pneumatic controller no later than 3 years from January 17, 2017.

* * * * *

■ 10. Amend § 3179.202 by revising paragraph (h) to read as follows:

§ 3179.202 Requirements for pneumatic diaphragm pumps.

* * * * *

(h) The operator must replace the pneumatic diaphragm pump(s) or route the exhaust gas to capture or to a flare or combustion device by January 17, 2019, except that if the operator will comply with paragraph (c) of this section by replacing the pneumatic diaphragm pump with a zero-emission pump and the well or facility that the pneumatic diaphragm pump serves has an estimated remaining productive life of 3 years or less from January 17, 2017, the operator must notify the BLM through a Sundry Notice and replace the pneumatic diaphragm pump no later than 3 years from January 17, 2017.

* * * * *

■ 11. Amend § 3179.203 by revising paragraph (b) and paragraph (c) introductory text to read as follows:

§ 3179.203 Storage vessels.

* * * * *

(b) Beginning January 17, 2019, and within 30 days after any new source of production is added to the storage vessel after January 17, 2019, the operator must determine, record, and make available to the BLM upon request, whether the storage vessel has the potential for VOC emissions equal to or greater than 6 tpy based on the maximum average daily throughput for a 30-day period of production. The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, State, local or tribal authority that limit the VOC emissions to less than 6 tpy.

(c) If a storage vessel has the potential for VOC emissions equal to or greater than 6 tpy under paragraph (b) of this section, by January 17, 2019, or by January 17, 2020, if the operator must and will replace the storage vessel at issue in order to comply with the requirements of this section, the operator must:

* * * * *

■ 12. Amend § 3179.204 by adding paragraph (i) to read as follows:

§ 3179.204 Downhole well maintenance and liquids unloading.

* * * * *

(i) The operator must comply with this section beginning January 17, 2019.

■ 13. Amend § 3179.301 by revising paragraph (f) to read as follows:

§ 3179.301 Operator responsibility.

* * * * *

(f) The operator must make the first inspection of each site:

(1) By January 17, 2019, for all existing sites;

(2) Within 60 days of beginning production for new sites that begin production after January 17, 2019; and

(3) Within 60 days of the date when an existing site that was out of service is brought back into service and re-pressurized after January 17, 2019.

* * * * *

[FR Doc. 2017–26389 Filed 12–7–17; 8:45 a.m.]

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FEDERAL REGISTER

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Part III

Federal Trade Commission

16 CFR Part 312

Enforcement Policy Statement Regarding the Applicability of the COPPA Rule to the Collection and Use of Voice Recordings; Policy Statement; Rule

FEDERAL TRADE COMMISSION

16 CFR Part 312

Enforcement Policy Statement Regarding the Applicability of the COPPA Rule to the Collection and Use of Voice Recordings

AGENCY: Federal Trade Commission.

ACTION: Commission policy statement.

SUMMARY: The Federal Trade Commission has issued an Enforcement Policy Statement regarding the applicability of the Children's Online Privacy Protection Act (''COPPA'') Rule to the collection of voice recordings. The Statement describes certain circumstances in which the Commission will not bring an enforcement action against an operator on the basis of the operator having collected an audio file containing a child's voice without first obtaining verifiable parental consent.

DATES: The Commission announced the issuance of the Statement on October 23, 2017.

FOR FURTHER INFORMATION CONTACT: Kristin Cohen (202–326–2276) and Peder Magee (202–326–3538), Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Enforcement Policy Statement Regarding the Applicability of the COPPA Rule to the Collection and Use of Voice Recordings

On November 3, 1999, the Federal Trade Commission (''FTC'' or ''Commission'') issued its Children's Online Privacy Protection Rule (''COPPA Rule'' or ''Rule''). The Rule implements the Children's Online Privacy Protection Act, 15 U.S.C. 6501–6505, and requires, among other things, operators of commercial Web sites or online services directed to children, and operators with actual knowledge they are collecting personal information from children, to provide notice of their information practices to parents and to obtain verifiable parental consent before collecting a child's personal information. The Rule defined ''personal information'' to include data such as name, address, and social security number.

In 2013, the FTC amended the COPPA Rule and added several new types of data to the definition of personal information, including a photograph, video, or audio file that contains a child's image or voice.[1] Discussing the 2013 amendments, the Commission explained that ''the very personal nature'' of such files supported the Commission's finding that they met the standard for personal information set forth in the COPPA statute because they ''permit the physical or online contacting of a specific individual.'' 78 FR 3972, 3982 (Jan. 17, 2013). Therefore, under the amended Rule, a covered operator must provide notice and obtain verifiable parental consent before it collects any of these types of personal information from a child. The Commission's rationale in amending the Rule was to keep pace with changes to technology, children's increased use of mobile devices, and the development of new business models that did not exist when the Commission issued the Rule in 1999.

Since amending the Rule, the Commission has received inquiries from a number of companies about whether the practice of collecting audio files that contain a child's voice, immediately converting the audio to text, and deleting the file containing the voice recording triggers COPPA's requirements. In particular, these companies have requested that collection of audio files in connection with a search or similar function be exempted from COPPA's verifiable parental consent requirement when the audio file is briefly maintained in order to fulfill the request and then deleted almost instantaneously.

In relevant part, the Rule defines ''collects or collection'' to mean the gathering of any personal information from a child by any means, including but not limited to:

- Requesting, prompting, or encouraging a child to submit personal information online;
- Enabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable steps to delete all or virtually all personal information from a child's postings before they are made public and also to delete such information from its records.[2]

The Commission views the collection from a child of an audio file when the voice is being used solely as a replacement for written words, such as to convert voice to text in order to perform a search, as falling into the first prong of the definition of ''collection'' because the operator is ''requesting, prompting, or encouraging'' the child to submit personal information. Because this practice falls into the first category of ''collection,'' the Rule does not provide a mechanism for the operator to avoid being deemed to have collected the personal information by deleting it. In other words, as soon as the operator gathers the audio file, it has collected it for purposes of the COPPA Rule regardless of how long the operator maintains possession of it. The second prong of the definition is meant to address the inadvertent collection of personal information, such as information that might be collected incidentally in an open text field, which is why the Rule specifically allows an operator to be deemed not to have collected the personal information if it takes reasonable measures to delete the information.

Nevertheless, the Commission recognizes the value of using voice as a replacement for written words in performing search and other functions on internet-connected devices. Verbal commands may be a necessity for certain consumers, including children who have not yet learned to write, or the disabled. In addition, when the operator only uses the audio file as a replacement for written words, such as to effectuate an instruction or request, and only maintains the file long enough to complete that purpose and then immediately deletes it, there is little risk the audio file will be used to contact an individual child.

As such, when a covered operator collects an audio file containing a child's voice solely as a replacement for written words, such as to perform a search or fulfill a verbal instruction or request, but only maintains the file for the brief time necessary for that purpose, the FTC would not take an enforcement action against the operator on the basis that the operator collected the audio file without first obtaining verifiable parental consent. Such an operator, however, must provide the notice required by the COPPA Rule, including clear notice of its collection and use of audio files and its deletion policy, in its privacy policy.

There are important limitations on this non-enforcement policy. First, this non-enforcement policy is not applicable when the operator requests information via voice that otherwise would be considered personal information under the Rule, such as name, for example. Second, as noted above, an operator must provide clear notice of its collection and use of the audio files and its deletion policy in its privacy policy. Otherwise, parents may have no way to know prior to download or purchase whether audio files are

[1] The prior definition included photographs only when combined with additional information that would allow physical or online contacting of the child.

[2] The third prong of the definition relates to passive tracking of a child online and is not relevant to this discussion.

being collected, and if they later learn that audio files are being collected, they would have no reason to know that the files are being collected only for a limited purpose and immediately destroyed. Third, the operator may not make any other use of the audio file in the brief period before the file is destroyed—for example, for behavioral targeting or profiling purposes, for identification purposes through voice recognition, or for posting, selling, or otherwise sharing the file with third parties. Finally, this policy does not affect the operator's COPPA compliance requirements in any other respect. For example, the operator must provide notice and obtain verifiable parental consent if types of personal information other than audio files are also collected.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–26509 Filed 12–7–17; 8:45 am]

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Part IV

The President

Proclamation 9681—Modifying the Bears Ears National Monument

Proclamation 9682—Modifying the Grand Staircase-Escalante National Monument

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Presidential Documents

Title 3—

The President

Proclamation 9681 of December 4, 2017

Modifying the Bears Ears National Monument

By the President of the United States of America

A Proclamation

In Proclamation 9558 of December 28, 2016, and exercising his authority under section 320301 of title 54, United States Code (the ''Antiquities Act''), President Barack Obama established the Bears Ears National Monument in the State of Utah, reserving approximately 1.35 million acres of Federal lands for the care and management of objects of historic and scientific interest identified therein. The monument is managed jointly by the Department of the Interior's Bureau of Land Management (BLM) and the Department of Agriculture's United States Forest Service (USFS). This proclamation makes certain modifications to the monument.

Proclamation 9558 identifies a long list of objects of historic or scientific interest. It describes cultural resources such as ancient cliff dwellings (including the Moon House and Doll House Ruins), Moki Steps, Native American ceremonial sites, tools and projectile points, remains of single-family dwellings, granaries, kivas, towers, large villages, rock shelters, caves, and a prehistoric road system, as well as petroglyphs, pictographs, and recent rock art left by the Ute, Navajo, and Paiute peoples. It also identifies other types of historic objects, such as remnants of Native American sheep-herding and farming operations and early engineering by pioneers and settlers, including smoothed sections of rock, dugways, historic cabins, corrals, trails, and inscriptions carved into rock, and the Hole-in-the-Rock and Outlaw Trails. It also describes landscape features such as the Bears Ears, Comb Ridge, Cedar Mesa, the Valley of the Gods, the Abajo Mountains, and the San Juan River, and paleontological resources such as the fossil remains of fishes, amphibians, reptiles, and mammals, as well as dinosaur trackways and traces of other terrestrial animals. Finally, it identifies several species, including animals like the porcupine, badger, and coyote; birds like the red-tailed hawk, Mexican spotted owl, American kestrel, and turkey vulture; and plants such as the Fremont cottonwood, Abajo daisy, western sandbar willow, and boxelder.

The Antiquities Act requires that any reservation of land as part of a monument be confined to the smallest area compatible with the proper care and management of the objects of historic or scientific interest to be protected. Determining the appropriate protective area involves examination of a number of factors, including the uniqueness and nature of the objects, the nature of the needed protection, and the protection provided by other laws.

Some of the objects Proclamation 9558 identifies are not unique to the monument, and some of the particular examples of these objects within the monument are not of significant scientific or historic interest. Moreover, many of the objects Proclamation 9558 identifies were not under threat of damage or destruction before designation such that they required a reservation of land to protect them. In fact, objects described in Proclamation 9558 were then—and still are—subject to Federal protections under existing laws and agency management designations. For example, more than 500,000 acres were already being managed to maintain, enhance, or protect their roadless character before they were designated as part of a national monument. Specifically, the BLM manages approximately 380,759 acres of lands

within the existing monument as Wilderness Study Areas, which the BLM is required by law to manage so as not to impair their suitability for future congressional designation as Wilderness. On lands managed by the USFS, 46,348 acres are part of the congressionally designated Dark Canyon Wilderness Area, which, under the 1964 Wilderness Act, 16 U.S.C. 1131–1136, and the Utah Wilderness Act of 1984, Public Law 98–428, the USFS must manage so as to maintain or enhance its wilderness character. Approximately 89,396 acres of the USFS lands are also included in 8 inventoried roadless areas, which are managed under the USFS's 2001 Roadless Rule so as to protect their wilderness character.

A host of laws enacted after the Antiquities Act provide specific protection for archaeological, historic, cultural, paleontological, and plant and animal resources and give authority to the BLM and USFS to condition permitted activities on Federal lands, whether within or outside a monument. These laws include the Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa–470mm, National Historic Preservation Act, 54 U.S.C. 300101 *et seq.,* Bald and Golden Eagle Protection Act, 16 U.S.C. 668–668d, Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.,* Federal Cave Resources Protection Act of 1988, 16 U.S.C. 4301 *et seq.,* Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.,* Migratory Bird Treaty Act, 16 U.S.C. 703–712, National Forest Management Act, 16 U.S.C. 1600 *et seq.,* Native American Graves Protection and Repatriation Act of 1976, 25 U.S.C. 3001 *et seq.,* and Paleontological Resources Preservation Act, 16 U.S.C. 470aaa–470aaa–11. Of particular note, the Archaeological Resources Protection Act specifically protects archaeological resources from looting or other desecration and imposes criminal penalties for unauthorized excavation, removal, damage, alteration, or defacement of archaeological resources. Federal land management agencies can grant a permit authorizing excavation or removal, but only when undertaken for the purpose of furthering archaeological knowledge. The Paleontological Resources Preservation Act contains very similar provisions protecting paleontological resources. And the Migratory Bird Treaty Act and Endangered Species Act protect migratory birds and listed endangered and threatened species and their habitats. Moreover, the BLM and the USFS were already addressing many of the threats to objects identified in Proclamation 9558 in their governing land-use plans before designation of the monument.

Given the nature of the objects identified on the lands reserved by Proclamation 9558, the lack of a threat of damage or destruction to many of those objects, and the protection for those objects already provided by existing law and governing land-use plans, I find that the area of Federal land reserved in the Bears Ears National Monument established by Proclamation 9558 is not confined to the smallest area compatible with the proper care and management of those objects. The important objects of scientific or historic interest can instead be protected by a smaller and more appropriate reservation of 2 areas: Shash Jáa and Indian Creek. Revising the boundaries of the monument to cover these 2 areas will ensure that, in accordance with the Antiquities Act, it is no larger than necessary for the proper care and management of the objects to be protected within the monument.

The Shash Jáa area contains the heart of the national monument: the iconic twin buttes known as the Bears Ears that tower 2,000 feet above the surrounding landscape and are considered sacred to the Native American tribes that call this area their ancestral home. Many of the significant objects described by Proclamation 9558 can be found throughout the Shash Jáa area. Ancestral Puebloan occupation of the area began during the Basketmaker II period at least 2,500 years ago, and it left behind objects such as pit houses, storage pits, lithic scatters, campsites, rock shelters, pictographs, and baskets, as well as manos and metates for grinding corn. Occupation dating to the Basketmaker III period, from approximately 500 to 750 C.E., left additional evidence of maize- and bean-based agriculture, along with pottery, bows and arrows, pit houses, kivas, storage rooms, and dispersed villages.

New waves of human settlement occurred around 900 C.E., when the Pueblo I period gave rise to large villages near Comb Wash, and 1050 C.E., when inhabitants from the Pueblo II period built expansive and complex multi-family dwellings. Around 1150 C.E., the dawn of the Pueblo III period, the area's inhabitants increasingly sought shelter in cliff dwellings and left behind evidence of an era of unrest. Several centuries later, the Ute, Paiute, and Navajo came to occupy the area.

East of the Bears Ears is Arch Canyon, within which paleontologists have found numerous fossils from the Permian and Upper Permian eras. Cliff dwellings are hidden throughout the canyon, and the mouth of the canyon holds the fabled Arch Canyon ruin, which spans the Pueblo II and III periods and contains pictographs and petroglyphs ranging from the Archaic to the historic periods.

Just south of Arch Canyon are the north and south forks of Mule Canyon. Five-hundred feet deep, 5 miles long, and decorated with alternating layers of red and white sandstone, these 2 striking canyons contain shelter-cliff dwellings and other archaeological sites, including the scenic and accessible House on Fire Ruin, which includes differing masonry styles that indicate several episodes of construction and use.

Perched high on the open tablelands above the south fork of Mule Canyon are the Mule Canyon ruins, where visitors can see exposed masonry walls of ancient living quarters and a partially restored kiva. The deep canyons and towering mesas of the Shash Jáa area are full of similar sites, including rock art, remains of single-family dwellings, granaries, kivas, towers (including the Cave Towers), and large villages primarily from the Pueblo II and III periods, along with sites from the Basketmaker and Archaic periods.

The Shash Jáa area also includes Comb Ridge, a north-south trending monocline that originates near the boundary of the Manti-La Sal National Forest, ends near the San Juan River, and contains remnants from the region's thousands of years of human habitation, including cliff dwellings, granaries, kivas, ceremonial sites, and the Butler Wash ruin, a world-famous Ancestral Puebloan ruin with multiple rooms and kivas. Comb Ridge also includes world-class examples of ancient rock art, such as the Butler Wash Kachina Panel, a wall-sized mural of San Juan Anthropomorph figures that dates to the Basketmaker period and is considered to be one of the Southwest's most important petroglyph panels for understanding the daily life and rituals of the Basketmaker people. Significant fossil sites have also been discovered in Butler Wash.

Just north of upper Butler Wash, the aspen-filled Whiskers Draw contains a series of alcoves that have sheltered evidence of human habitation for thousands of years, including Cave 7, the site where Richard Wetherill, as part of the Hyde Expedition in 1893, first identified what we know today as the Basketmaker people. The nearby Milk Ranch Point is home to a rich concentration of kivas, granaries, dwellings, and other evidence that Pueblo I farmers used this area to cultivate corn, beans, and squash.

The Shash Jáa area also contains the Comb Ridge Fossil site, which includes a trackway created by a giant arthropod *(Diplichnites cuithensis),* the first recorded instance of such a trackway in Utah. Also, the diverse landscape of the Shash Jáa area provides habitat for the vast majority of plant and animal species described by Proclamation 9558.

Finally, the Shash Jáa area as described on the accompanying map includes 2 non-contiguous parcels of land that encompass the Moon House Ruin, an example of iconic Pueblo-decorated architecture, which was likely the last occupied site on Cedar Mesa, as well as Doll House Ruin, a fully intact and well-preserved single room granary that is associated with an extensive agricultural area on the mesa top. These significant ruins are important examples of cultural resource objects that should remain within the monument's boundaries.

The Indian Creek area likewise contains objects of significance described in Proclamation 9558. At its center is the broad Indian Creek Canyon, which is characterized by sheer red cliffs and spires of exposed and eroded layers of Navajo, Kayenta, Wingate, and Cedar Mesa sandstone, including the iconic North and South Six-Shooter Peaks.

Also located within the Indian Creek area is the Canyonlands Research Center. Spanning lands managed by the National Park Service, BLM, USFS, and private landowners, this unique partnership works to increase our understanding of the complex natural systems on the landscape, providing their custodians with information they need to adapt to the challenges of a changing Colorado Plateau.

Newspaper Rock, a popular attraction in the Indian Creek area, is a roadside rock art panel that has been listed on the National Register of Historic Places since 1976. This site displays a significant concentration of rock art from multiple periods, etched into Wingate sandstone. The older art is attributed to the Ancestral Puebloan people who inhabited this region for 2,000 years, while the more recent rock art is attributed to the Ute people who still live in the Four Corners area.

In addition to Newspaper Rock, the Indian Creek area contains numerous other significant rock art sites, including the distinctive and well-preserved petroglyphs in Shay Canyon. The area also provides opportunities for cultural and scientific research and paleontological study. Dinosaur tracks in the bottom of the Shay Canyon stream bed are a unique visual reminder of the area's distant past. Additional paleontological resources can be found throughout the Indian Creek area, including vertebrate and invertebrate fossils, primarily in the Chinle Formation. The Indian Creek area also includes 2 prominent mesas, Bridger Jack Mesa and Lavender Mesa, which are home to relict plant communities, predominantly composed of pinyon-juniper woodland, with small, interspersed sagebrush parks, that exist only on these isolated islands in the desert sea and are, generally, unaltered by humans. These mesas provide the opportunity for comparative studies of pinyon-juniper woodland and sagebrush communities in other parts of the Colorado Plateau. Additionally, the Indian Creek area includes the exposed Chinle Formation, known for abundant fossilized flora and fauna, including pelecypods, gastropods, arthropods, fishes, amphibians, and reptiles (including dinosaurs). Finally, the area is well known for vertebrate trackways, including tetrapod footprints.

Some of the existing monument's objects, or certain examples of those objects, are not within the monument's revised boundaries because they are adequately protected by existing law, designation, agency policy, or governing land-use plans. For example, although the modified boundaries do not include the San Juan River or the Valley of the Gods, both of those areas are protected by existing administratively designated Areas of Critical Environmental Concern. Plant and animal species such as the bighorn sheep, the Kachina daisy, the Utah night lizard, and the *Eucosma navojoensis* moth are protected by the Endangered Species Act and existing land-use plans and policies protecting special-status species. Additionally, some of the range of these species falls within existing Wilderness Areas and Wilderness Study Areas. Finally, although Hideout Canyon is likewise not included within the modified boundaries, it is generally not threatened and is partially within a Wilderness Study Area.

The areas described above are the smallest compatible with the protection of the important objects identified in Proclamation 9558. The modification of the Bears Ears National Monument will maintain and protect those objects and preserve the area's cultural, scientific, and historic legacy.

WHEREAS, Proclamation 9558 of December 28, 2016, designated the Bears Ears National Monument in the State of Utah and reserved approximately 1.35 million acres of Federal lands for the care and management of the Bears Ears buttes and other objects of historic and scientific interest identified therein; and

WHEREAS, many of the objects identified by Proclamation 9558 are otherwise protected by Federal law; and

WHEREAS, it is in the public interest to modify the boundaries of the monument to exclude from its designation and reservation approximately 1,150,860 acres of land that I find are unnecessary for the care and management of the objects to be protected within the monument; and

WHEREAS, the boundaries of the monument reservation should therefore be reduced to the smallest area compatible with the protection of the objects of scientific or historic interest as described above in this proclamation;

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim that the boundaries of the Bears Ears National Monument are hereby modified and reduced to those lands and interests in land owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. I hereby further proclaim that the modified monument areas identified on the accompanying map shall be known as the Indian Creek and Shash Jáa units of the monument, the latter of which shall include the Moon House and Doll House Ruins. These reserved Federal lands and interests in lands cumulatively encompass approximately 201,876 acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects to be protected. Any lands reserved by Proclamation 9558 not within the boundaries identified on the accompanying map are hereby excluded from the monument.

At 9:00 a.m., eastern standard time, on the date that is 60 days after the date of this proclamation, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the public and National Forest System lands excluded from the monument reservation shall be open to:

(1) entry, location, selection, sale, or other disposition under the public land laws and laws applicable to the U.S. Forest Service;

(2) disposition under all laws relating to mineral and geothermal leasing; and

(3) location, entry, and patent under the mining laws.

Appropriation of lands under the mining laws before the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law.

Nothing in this proclamation shall be construed to remove any lands from the Manti-La Sal National Forest or to otherwise revoke, modify, or affect any withdrawal, reservation, or appropriation, other than the one created by Proclamation 9558.

Nothing in this proclamation shall change the management of the areas designated and reserved by Proclamation 9558 that remain part of the monument in accordance with the terms of this proclamation, except as provided by the following 4 paragraphs:

In recognition of the importance of tribal participation to the care and management of the objects identified above, and to ensure that management decisions affecting the monument reflect tribal expertise and traditional and historical knowledge, Proclamation 9558 established a Commission to provide guidance and recommendations on the development and implementation of management plans and on management of the monument, and to partner with Federal agencies by making continuing contributions to inform decisions regarding the management of the monument. In order to

ensure that the full range of tribal expertise and traditional historical knowledge is included in such guidance and recommendations, paragraph 29 of Proclamation 9558 is hereby revised to provide that the Bears Ears Commission shall be known as the Shash Jáa Commission, shall apply only to the Shash Jáa unit as described herein, and shall also include the elected officer of the San Juan County Commission representing District 3 acting in that officer's official capacity.

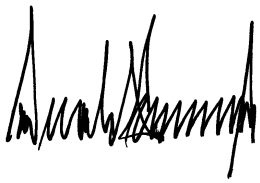
Proclamation 9558 is hereby revised to clarify that, pending preparation of the transportation plan required by paragraph 34 thereof, the Secretaries of the Interior and Agriculture may allow motorized and non-mechanized vehicle use on roads and trails designated for such use immediately before the issuance of Proclamation 9558 and maintain roads and trails for such use.

Paragraph 35 of Proclamation 9558 governing livestock grazing in the monument is hereby revised to read as follows: ''Nothing in this proclamation shall be deemed to affect authorizations for livestock grazing, or administration thereof, on Federal lands within the monument. Livestock grazing within the monument shall continue to be governed by laws and regulations other than this proclamation.''

Proclamation 9558 is amended to clarify that, consistent with the care and management of the objects identified above, the Secretaries of the Interior and Agriculture may authorize ecological restoration and active vegetation management activities in the monument.

If any provision of this proclamation, including its application to a particular parcel of land, is held to be invalid, the remainder of this proclamation and its application to other parcels of land shall not be affected thereby.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of December, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



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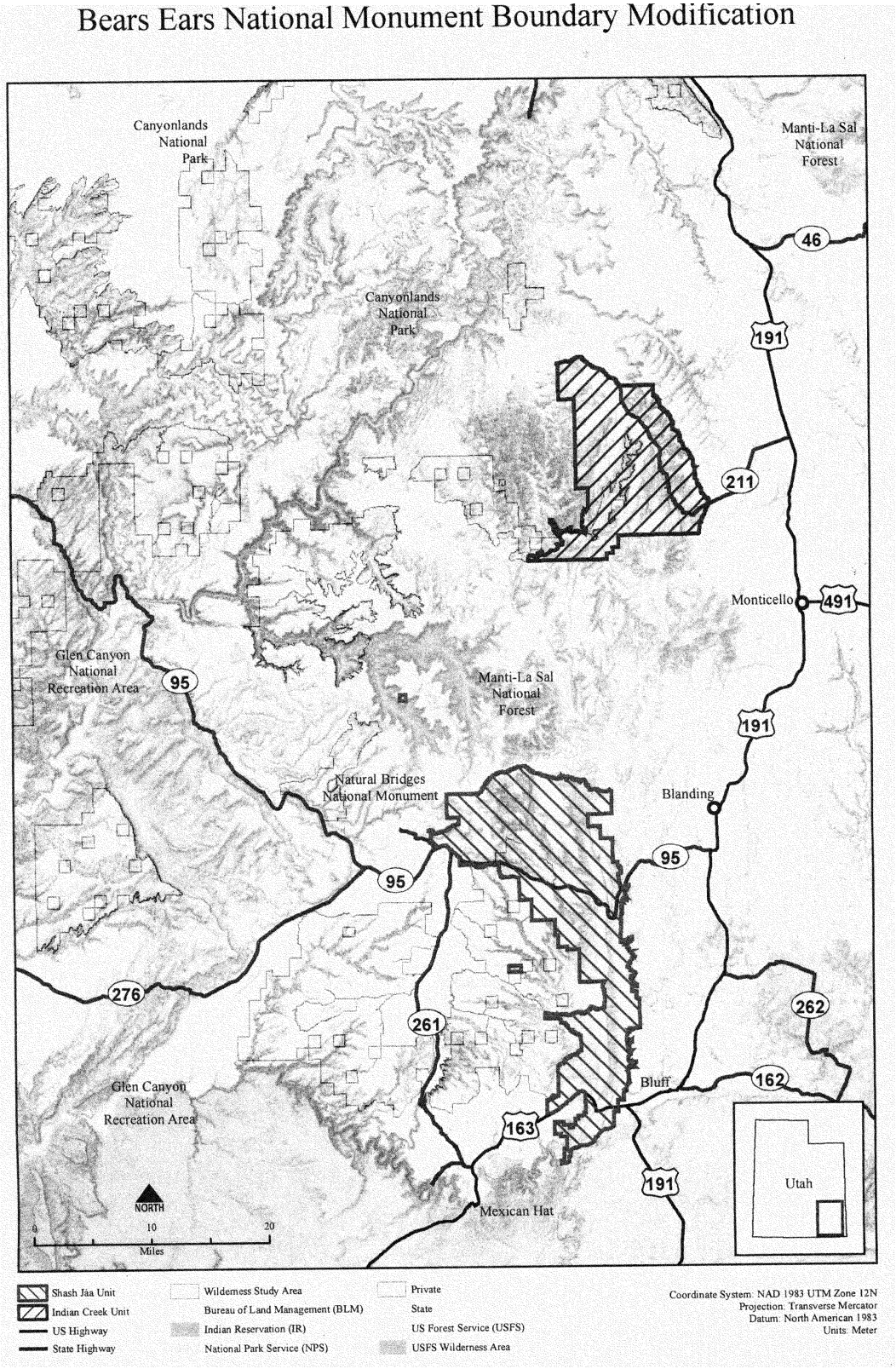


[FR Doc. 2017–26709

Filed 12–7–17; 11:15 am]

Billing code 4310–10–C

Presidential Documents

Proclamation 9682 of December 4, 2017

Modifying the Grand Staircase-Escalante National Monument

By the President of the United States of America

A Proclamation

In Proclamation 6920 of September 18, 1996, and exercising his authority under the Act of June 8, 1906 (34 Stat. 225) (the ''Antiquities Act''), President William J. Clinton established the Grand Staircase-Escalante National Monument in the State of Utah, reserving approximately 1.7 million acres of Federal lands for the care and management of objects of historic and scientific interest identified therein. The monument is managed by the Department of the Interior's Bureau of Land Management (BLM). This proclamation makes certain modifications to the monument.

Proclamation 6920 identifies a long list of objects of historic or scientific interest within the boundaries of the monument. In the 20 years since the designation, the BLM and academic researchers have studied the monument to better understand the geology, paleontology, archeology, history, and biology of the area.

The Antiquities Act requires that any reservation of land as part of a monument be confined to the smallest area compatible with the proper care and management of the objects of historic or scientific interest to be protected. Determining the appropriate protective area involves examination of a number of factors, including the uniqueness and nature of the objects, the nature of the needed protection, and the protection provided by other laws.

Proclamation 6920 identifies the monument area as rich with paleontological sites and fossils, including marine and brackish water mollusks, turtles, crocodilians, lizards, dinosaurs, fishes, and mammals, as well as terrestrial vertebrate fauna, including mammals, of the Cenomanian-Santonian ages, and one of the most continuous records of Late Cretaceous terrestrial life in the world. Nearly 2 decades of intense study of the monument has provided a better understanding of the areas with the highest concentrations of fossil resources and the best opportunities to discover previously unknown species. While formations like the Wahweap and Kaiparowits occur only in southern Utah and provide an important record of Late Cretaceous fossils, others like the Chinle and Morrison formations occur throughout the Colorado Plateau. The modified monument boundaries take into account this new information and, as described in more detail below, retain the majority of the high-potential areas for locating new fossil resources that have been identified within the area reserved by Proclamation 6920.

Proclamation 6920 also identifies a number of unique geological formations and landscape features within the monument boundaries. These include the Grand Staircase, White Cliffs, Vermilion Cliffs, Kaiparowits Plateau, Upper Paria Canyon System, Upper Escalante Canyons, Burning Hills, Circle Cliffs, East Kaibab Monocline, Grosvenor Arch, and Escalante Natural Bridge, all of which are retained in whole or part within the revised monument boundaries. The Waterpocket Fold, however, is located mostly within the Capitol Reef National Park and the portions within the monument are not unique or particularly scientifically significant. Therefore, the boundaries of the monument may be modified to exclude the Waterpocket Fold without imperiling the proper care and management of that formation. The more general landscape features discussed in the proclamation, such as serpentine

canyons, arches, and natural bridges, are common across the Colorado Plateau both within and outside of the modified boundaries of the monument described below.

Archeological and historic objects identified within the monument are more generally discussed in Proclamation 6920, which specifically identifies only the Hole-in-the-Rock Trail, the Paria Townsite, and Dance Hall Rock as objects of historic or scientific interest, all 3 of which will remain within the revised monument boundaries, although a portion of the Hole-in-the-Rock Trail will be excluded. Proclamation 6920 also describes Fremont and Ancestral Puebloan rock art panels, occupation sites, campsites, and granaries, as well as historic objects such as those left behind by Mormon pioneers, including trails, inscriptions, ghost towns, rock houses, and cowboy line camps. These are artifacts that are known to generally occur across the Four Corners region, particularly in southern Utah, and the examples found within the monument are not, as described, of any unique or distinctive scientific or historic significance. In light of the prevalence of similar objects throughout the region, the existing boundaries of the monument are not ''the smallest area compatible with the proper care'' of these objects, and they may be excluded from the monument's boundaries. Further, many of these objects or examples of these objects are retained within the modified boundaries described below.

Finally, with respect to the animal and plant species, Proclamation 6920 characterizes the area as one of the richest floristic regions in the Intermountain West, but it identifies only a few specific species as objects of scientific or historic interest. The revised boundaries contain the majority of habitat types originally protected by Proclamation 6920.

Thus, many of the objects identified by Proclamation 6920 are not unique to the monument, and some of the particular examples of those objects within the monument are not of significant historic or scientific interest. Moreover, many of the objects identified by Proclamation 6920 are not under threat of damage or destruction such that they require a reservation of land to protect them; in fact, many are already subject to Federal protection under existing law and agency management designations. The BLM manages nearly 900,000 acres of lands within the existing monument as Wilderness Study Areas, which the BLM is already required by law to manage so as not to impair the suitability of such areas for future congressional designation as Wilderness.

A host of laws enacted after the Antiquities Act provide specific protection for archaeological, historic, cultural, paleontological, and plant and animal resources and give authority to the BLM to condition permitted activities on Federal lands, whether within or outside a monument. These laws include the Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa–470mm, National Historic Preservation Act, 54 U.S.C. 300101 *et seq.,* Bald and Golden Eagle Protection Act, 16 U.S.C. 668–668d, Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.,* Federal Cave Resources Protection Act of 1988, 16 U.S.C. 4301 *et seq.,* Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.,* Migratory Bird Treaty Act, 16 U.S.C. 703–712, Native American Graves Protection and Repatriation Act of 1976, 25 U.S.C. 3001 *et seq.,* and Paleontological Resources Preservation Act, 16 U.S.C. 470aaa–470aaa–11. Of particular note, the Paleontological Resources Preservation Act, enacted in 2009, imposes criminal penalties for unauthorized excavation, removal, damage, alteration, or defacement of paleontological resources. Federal land management agencies can grant permits authorizing excavation or removal, but only when undertaken for the purpose of furthering paleontological knowledge. The Archaeological Resources Protection Act contains very similar provisions protecting archeological resources. And the Migratory Bird Treaty Act and Endangered Species Act protect migratory birds and listed endangered and threatened species and their habitats.

Especially in light of the research conducted since designation, I find that the current boundaries of the Grand Staircase-Escalante National Monument established by Proclamation 6920 are greater than the smallest area compatible with the protection of the objects for which lands were reserved and, therefore, that the boundaries of the monument should be reduced to 3 areas: Grand Staircase, Kaiparowits, and Escalante Canyons. These revisions will ensure that the monument is no larger than necessary for the proper care and management of the objects.

The Grand Staircase area is named for one of the iconic landscapes in the American West. An unbroken sequence of cliffs and plateaus, considered to be the most colorful exposed geologic section in the world, has inspired wonder in visitors since the days of early western explorers.

The White Cliffs that rise more than 1,500 feet from the desert floor are the hardened remains of the largest sand sea that ever existed. The deep red Vermilion Cliffs, once the eastern shore of the ancient Lake Dixie, contain a rich fossil record from the Late Triassic period to the early Jurassic period, including petrified wood, fish, dinosaur, and other reptilian bones. Fossil footprints are also common, including those at the Flag Point tracksite, which includes dinosaur fossil tracks adjacent to a Native American rock art panel depicting dinosaur tracks. This area also contains a number of relict vegetative communities occurring on isolated mesa tops, an example of which, No Mans Mesa, was identified in Proclamation 6920.

The archaeology of the Grand Staircase area is dominated by sites constructed by the Virgin Branch of the Ancestral Puebloans—ancient horticulturalists and farmers who subsisted largely on corn, beans, and squash, and occupied the area from nearly 2000 B.C.E. to about 1250 C.E. The landscape was also the home of some of the earliest corn-related agriculture in the Southwest, and it continues to hold remnants of these early farmsteads and small pueblos. The evidence of this history, including remnants of the beginning of agriculture, development of prehistoric farming systems, and the final abandonment of the area, is concentrated in the lower levels of the Grand Staircase. The higher cliffs, benches, and plateaus hold evidence of occupation by Archaic and Late Prehistoric people, including Clovis and other projectile points and residential pit structures that indicate occupation by hunter-gatherers starting about 13,000 years ago.

Following the abandonment of the area by Ancestral Puebloans, the area was re-occupied by a new population of hunter-gatherers, the people known today as the Southern Paiute Indians. The Southern Paiute Indians identify this area as part of their ancestral homeland. Still later Mormon pioneers settled the area, as evidenced by remnants of roads, trails, line shacks, rock houses, and abandoned town sites.

The Kaiparowits area is dominated by a dissected mesa that rises thousands of feet above the surrounding terrain. These vast, rugged badlands are characterized by towering cliffs and escarpments that expose tiers of fossil-rich formations.

In addition to striking scenery, the area is world-renowned for rich fossil resources, including 16 species that have been found nowhere else. The plateau is considered one of the best, most continuous records of Late Cretaceous life in the world. It includes fossils of mollusks, reptiles, dinosaurs, fishes, and mammals, as well as the only evidence in our hemisphere of terrestrial vertebrate fauna from the Cenomanian through Santonian ages. Since 2000, nearly 4,000 new fossil sites have been documented on the plateau. The Dakota, Tropic Shale, Wahweap, and Kaiparowits formations in the area have been found to contain numerous important fossils, including those of early mammals and reptiles (Dakota); marine reptiles, including 5 species of plesiosaur and North America's oldest mosasaur (Tropic Shale); and multiple new species of dinosaurs (Wahweap and Kaiparowits), including the *Diabloceratops eatoni,* a relative of the Triceratops named for its devil-like horns, and the *Lythronax argestes,* whose name means ''Gore King of the Southwest.''

The Kaiparowits area also includes objects of geologic interest, which Proclamation 6920 identified. The rugged canyons and natural arches of the Upper Paria River expose the colorful and varied Carmel and Entrada formations that draw visitors to the area. One of the most famous arches, Grosvenor Arch, is a rare double arch that towers more than 150 feet above the desert floor. The area also contains ''hydrothermal-collapse'' pipes and dikes that have revealed to researchers a fascinating story of a geologic catastrophe triggered by either a massive earthquake or an asteroid impact.

The western side of the Kaiparowits area includes the majority of the East Kaibab Monocline, which features an erosional ''hogback'' known as the ''Cockscomb,'' as well as broad exposures of multicolored rocks and intricate canyons. It is considered one of the true scenic and geologic wonders of the area. On the east side of the plateau, the scorched earth of the Burning Hills is a geologic curiosity: a vast underground coal seam that some researchers believe has been burning for eons, sending acrid smoke up through vents in the ground and turning the hillsides brick red. Finally, along the eastern edge of the Kaiparowits Plateau is a series of oddly shaped arches and other rock formations known as the Devil's Garden.

The Kaiparowits area also contains a unique record of human history. The overall archaeology of the Kaiparowits Plateau is dominated by Archaic and Late Prehistoric era sites. There are, however, a few important sites that tell the story of occupation first by the Fremont, who came from an area to the east, and later by Virgin and Kayenta Ancestral Puebloans. These sites show new types of architecture and pottery that mixed traditional Fremont and Ancestral Puebloan styles. Prehistoric cliff structures in parts of the Kaiparowits Plateau are well preserved and provide researchers and visitors an opportunity to better understand the apparently peaceful mixture of 3 cultures starting in the early 1100s. In particular, the Fifty-Mile Mountain area contains hundreds of cultural resource sites, including Ancestral Puebloan habitations, granaries, and masonry structures.

Historical use of the Kaiparowits area plays a very important part in the rich ranching history of southern Utah, which is evidenced by a complex pattern of roads, stock trails, line shacks, attempted farmsteads, and small mining operations. Fifty-Mile Mountain, in particular, contains a number of historic cabins, as well as other evidence of pioneer living, including ruins, rip-gut fences, and historic trails. It is believed that Zane Grey used the Fifty-Mile Mountain area as a landscape reference point when he wrote ''Wild Horse Mesa.'' There are also a number of historic signature panels across the plateau that document continued grazing and ranching use of the landscape by multiple generations of the same families.

To the east of Fifty-Mile Mountain in the Escalante Desert, Dance Hall Rock stands out as an important landmark of Mormon pioneers. While the Hole-in-the-Rock Trail was under construction in 1879, Mormon pioneers camped in this area and held meetings and dances here. Similarly, as described above, the old Paria Townsite is an important ghost town within the Kaiparowits area, as it served as the only town and post office site within the area at the turn of the 20th century.

The Escalante Canyons area likewise contains objects of significance. The canyonlands of the area provide a fantastic display of geologic activities and erosional forces that, over millions of years, created a network of deep, narrow canyons, high plateaus, sheer cliffs, and beautiful sandstone arches and natural bridges, including the 130-foot-tall Escalante Natural Bridge. Additionally, this area boasts Calf Creek Canyon, a canyon of red alcoved walls with expanses of white slickrock that is named for its use as a natural cattle pen at the end of the 19th century.

To the east of the Canyonlands, Circle Cliffs is a breached anticline with spectacular painted-desert scenery, the result of exposed sedimentary rocks of the Triassic Chinle and Moenkopi formations. The Circle Cliffs area also contains large, unbroken petrified logs up to 30 feet in length. A

nearly complete articulated skeleton of Poposauras—a rare bipedal crocodilian fossil—was also found here.

The Escalante Canyons area also contains a high density of Fremont prehistoric sites, including pithouses, villages, storage cysts, and rock art. The canyon of the Escalante River and its tributary canyons contain one of the highest densities of rock art sites in southwestern Utah outside of Capitol Reef National Park, with sites dating from the Archaic to the Historic periods. The Hundred Hands rock art panel is located in the river canyon, and is spiritually significant to all tribes that claim ancestry in the area.

There are also significant historic sites in this area related to grazing and ranching, along with the Boulder Mail Trail, which was used to ferry mail between the small desert outpost towns of Escalante and Boulder beginning in 1902. Today, much of the trail is still visible, and it has become popular with backpackers.

The areas described above are the smallest compatible with the proper care and management of the objects to be protected. The Grand Staircase-Escalante National Monument, as modified by this proclamation, will maintain and protect those objects and preserve the area's cultural, scientific, and historic legacy.

WHEREAS, Proclamation 6920 of September 18, 1996, established the Grand Staircase-Escalante National Monument in the State of Utah and reserved approximately 1.7 million acres of Federal lands for the care and management of the objects of historic and scientific interest identified therein; and

WHEREAS, many of the objects identified by Proclamation 6920 are otherwise protected by Federal law; and

WHEREAS, it is in the public interest to modify the boundary of the monument to exclude from its designation and reservation approximately 861,974 acres of land that I find are no longer necessary for the proper care and management of the objects to be protected within the monument; and

WHEREAS, the boundaries of the monument reservation should therefore be reduced to the smallest area compatible with the protection of the objects of scientific or historic interest, as described above in this proclamation;

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim that the boundary of the Grand Staircase-Escalante National Monument is hereby modified and reduced to those lands and interests in lands owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. I hereby further proclaim that the modified monument areas identified on the accompanying map shall be known as the Grand Staircase, Kaiparowits, and Escalante Canyons units of the monument. These reserved Federal lands and interests in lands cumulatively encompass approximately 1,003,863 acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects to be protected.

Any lands reserved by Proclamation 6920 not within the boundaries identified on the accompanying map are hereby excluded from the monument.

At 9:00 a.m., eastern standard time, on the date that is 60 days after the date of this proclamation, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the public lands excluded from the monument reservation shall be open to:

(1) entry, location, selection, sale or other disposition under the public land laws;

(2) disposition under all laws relating to mineral and geothermal leasing; and

(3) location, entry, and patent under the mining laws.

Appropriation of lands under the mining laws before the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law.

Nothing in this proclamation shall be construed to revoke, modify, or affect any withdrawal, reservation, or appropriation, other than the one created by Proclamation 6920.

Nothing in this proclamation shall change the management of the areas designated and reserved by Proclamation 6920 that remain part of the monument in accordance with the terms of this proclamation, except as provided by the following 5 paragraphs:

Paragraph 14 of Proclamation 6920 is updated and clarified to require that the Secretary of the Interior (Secretary) prepare and maintain a management plan for each of the 3 units of the monument with maximum public involvement including, but not limited to, consultation with federally recognized tribes and State and local governments. The Secretary, through the BLM, shall also consult with other Federal land management agencies in the local area in developing the management plans.

Proclamation 6920 is amended to provide that the Secretary shall maintain one or more advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.) to provide information and advice regarding the development of the above-described management plans, and, as appropriate, management of the monument. Any advisory committee maintained shall consist of a fair and balanced representation of interested stakeholders, including State and local governments, tribes, recreational users, local business owners, and private landowners.

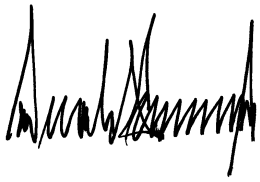
Proclamation 6920 is clarified to provide that, consistent with protection of the objects identified above and other applicable law, the Secretary may allow motorized and non-mechanized vehicle use on roads and trails existing immediately before the issuance of Proclamation 6920 and maintain roads and trails for such use.

Paragraph 12 of Proclamation 6920 governing livestock grazing in the monument is hereby modified to read as follows: ''Nothing in this proclamation shall be deemed to affect authorizations for livestock grazing, or administration thereof, on Federal lands within the monument. Livestock grazing within the monument shall continue to be governed by laws and regulations other than this proclamation.''

Proclamation 6920 is amended to clarify that, consistent with the care and management of the objects identified above, the Secretary may authorize ecological restoration and active vegetation management activities in the monument.

If any provision of this proclamation, including its application to a particular parcel of land, is held to be invalid, the remainder of this proclamation and its application to other parcels of land shall not be affected thereby.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of December, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



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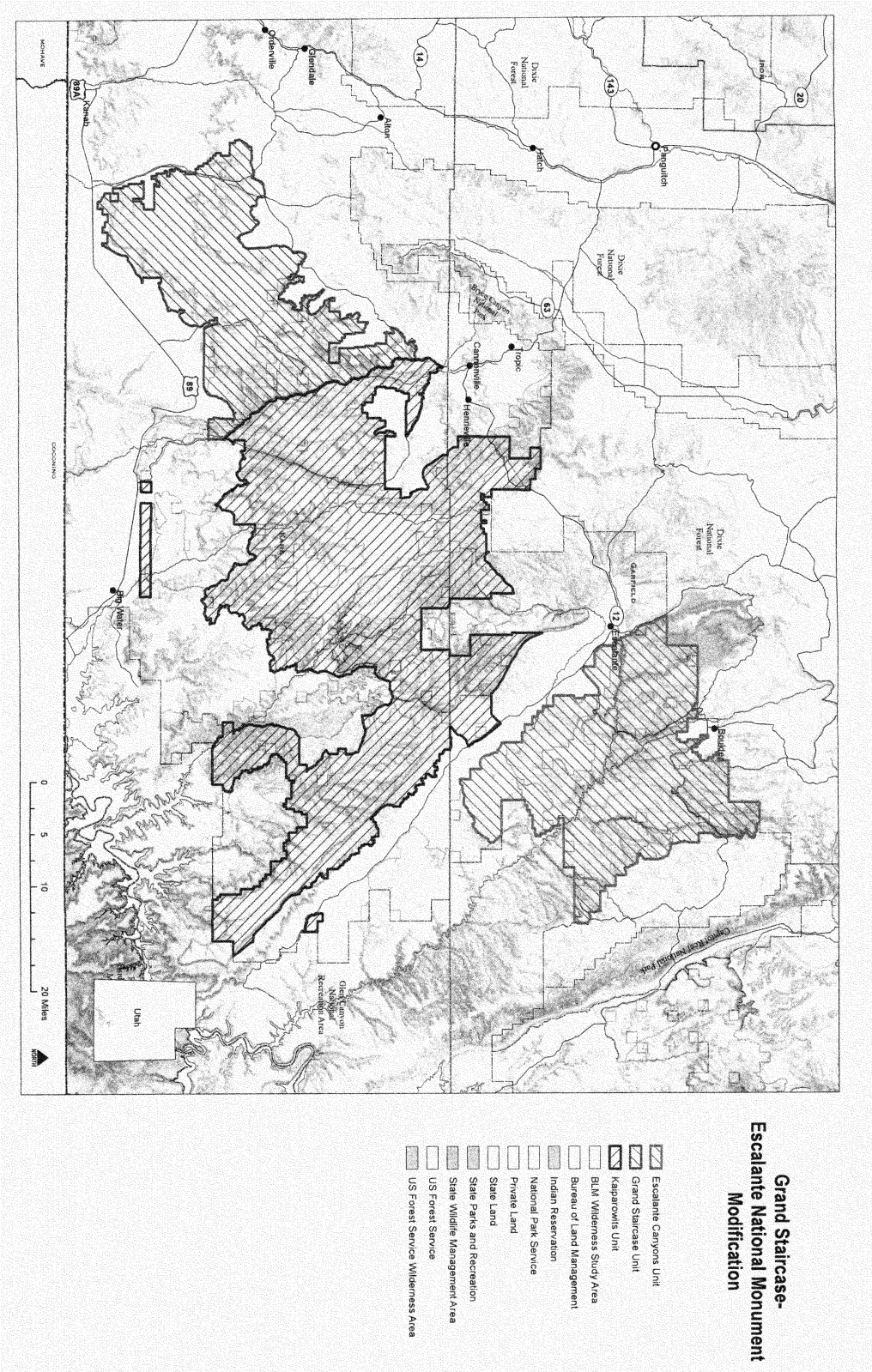

[FR Doc. 2017–26714

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Vol. 82, No. 235

Friday, December 8, 2017

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FEDERAL REGISTER PAGES AND DATE, DECEMBER

56859–57104 1
57105–57330 4
57331–57536 5
57537–57656 6
57657–57818 7
57819–58096 8

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6920 (Amended by Proc. 9682) 58089
9558 (Amended by Proc. 9681) 58081
9679.....57533
9680.....57535
9681.....58081
9682.....58089

7 CFR

3.....57331

Proposed Rules:
906.....57164
985.....56922
986.....57106

8 CFR

1240.....57336

10 CFR

72.....57819
710.....57105

12 CFR

Proposed Rules:
201.....57886

13 CFR

300.....57034
301.....57034
302.....57034
303.....57034
304.....57034
305.....57034
307.....57034
309.....57034
314.....57034

14 CFR

39 .....56859, 56865, 57340, 57343, 57537, 57539
71.....57541
97.....57115, 57117

Proposed Rules:
27.....57685
29.....57687
39 .....57172, 57383, 57390, 57552
71 .....57554, 57556, 57558, 57888

16 CFR

312.....58076
1112.....57119
1250.....57119

Proposed Rules:
315.....57889

19 CFR

4.....57821
12.....57346

20 CFR

641.....56869

21 CFR

Proposed Rules:
Ch. 1 57560
884.....57174

27 CFR

9.....57657, 57659
24.....57351
27.....57351

Proposed Rules:
24.....57392, 57688
27.....57392

28 CFR

Proposed Rules:
16.....57181

29 CFR

2550.....57664

Proposed Rules:
531.....57395

30 CFR

950.....57664

32 CFR

9.....57825
10.....57825
11.....57825
12.....57825
13.....57825
14.....57825
15.....57825
16.....57825
17.....57825

33 CFR

117 .....56886, 57353, 57674, 57825
165 .....57354, 57826, 57828

Proposed Rules:
117.....57561
165.....57413

37 CFR

6.....56887
201.....56890
202.....56890

Proposed Rules:
201.....56926

38 CFR

3.....57830

39 CFR

20.....57356

40 CFR

52 .....57123, 57125, 57126,

57130, 57132, 57133, 57362, 57677, 57835, 57836, 57848, 57849, 57853, 57854
81.....57853, 57854
174.....57135, 57137
180 .....57140, 57144, 57149, 57151, 57367, 57854, 57860, 57867, 57872
300.....56890
770.....57874
1601.....57875

Proposed Rules:

52 .....57183, 57415, 57418, 57689, 57694, 57892
81.....57892
180.....57193
300.....56939

42 CFR

510.....57066
512.....57066

43 CFR

3160.....58050
3170.....58050

44 CFR

64.....57680

45 CFR

Proposed Rules:

1304.....57905

46 CFR

296.....56895
356.....56899
393.....56902

47 CFR

1.....57876
10.....57158
11.....57158
51.....57161
64.....56909
69.....57161
73.....57684, 57876

49 CFR

1104.....57370
1109.....57370
1111.....57370
1114.....57370
1130.....57370

50 CFR

622.....56917
635.....57543, 57885
648.....57382
665.....57551
679.....57162

Proposed Rules:

17.....57562, 57698
223.....57565
224.....57565
Ch. III.....57699
600.....57419
679.....57906, 57924

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List November 30, 2017

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